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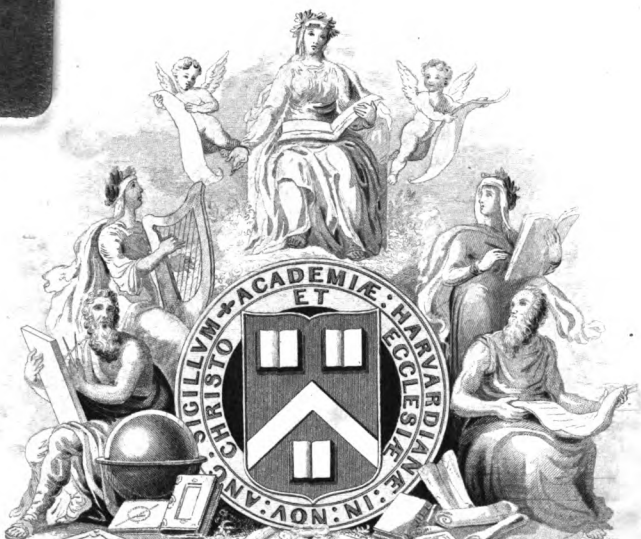

The Gift of

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Received
20 August, 1859.

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See page 85.

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AN ACT

TO

ORGANIZE, GOVERN, AND DISCIPLINE

THE MILITIA,

OF THE

STATE OF MAINE. —

Legislature.

PASSED MARCH 21, 1821. (1821-30.)

WITH THE

SEVERAL ACTS IN ADDITION THERETO,

PASSED FEB. 11, 1823, AND FEB. 25, 1824.

Published under the direction of the Adjutant General.

PORTLAND:
PRINTED BY TODD AND SMITH.
1824.

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War 2958.24

1859. Aug. 20.

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STATE OF MAINE.

In the year of our Lord one thousand eight hundred and twenty-one.

AN ACT to organize, govern, and discipline the Militia of this State.

Laws of the United States, relating to the Militia, now in force.

WHEREAS, Congress on the eighth day of May, in the year of our Lord one thousand seven hundred and ninety-two, passed the following law, entitled "An Act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States."

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That each and every free, able bodied, white male citizen of the respective States, resident therein, who is or shall be of the age of eighteen years, and under the age of forty five years, (except as is hereinafter excepted,) shall severally and respectively be enrolled in the Militia, by the Captain or Commanding Officer of the Company, within whose bounds such citizen shall reside, and that within twelve months after the passing of this act. And it shall at all times hereafter be the duty of every such Captain or Commanding Officer of a Company, to enroll every

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such citizen as aforesaid, and also those who shall, from time to time, arrive at the age of eighteen years, or being of the age of eighteen years, and under the age of forty-five years, (except as before excepted,) shall come to reside within his bounds, and shall without delay notify such citizen of the said enrolment, by a proper non-commissioned officer of the Company, by whom such notice may be proved. That every citizen so enrolled and notified, shall, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints, and a knapsack, a pouch, with a box therein to contain not less than twenty-four cartridges, suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot pouch and powder horn, twenty balls, suited to the bore of his rifle, and a quarter of a pound of powder; and shall appear so armed, accoutred and provided, when called out to exercise, or into service, except that when called out on company days to exercise only, he may appear without a knapsack. That the Commissioned Officers shall severally be armed with a sword or hanger, an espontoon; and that from and after five years from the passing of this act, all muskets for arming the Militia, as herein required, shall be of bores sufficient for balls of the eighteenth part of a pound. And every citizen so enrolled, and providing himself with the arms, ammunition, and accoutrements required as aforesaid, shall hold the same exempt from all suits, distresses, executions of sales for debt, or for the payment of taxes.

Sect. 2. *And be it further enacted*, That the Vice-President of the United States, the Officers, Judicial and Executive of the Government of the United States, the Members of both Houses of Congress, and their respective officers; all Custom House Officers, with their Clerks; all Post Officers

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and Stage Drivers, who are employed in the care and conveyance of the Mail of the Post Office of the United States; all Ferrymen, employed at any ferry, on the post road; all Inspectors of Exports; all Pilots; all Mariners, actually employed in the sea service of any citizen or merchant, within the United States; and all persons who now are, or may hereafter be exempted by the laws of the respective States, shall be, and are hereby exempted from military duty, notwithstanding their being above the age of eighteen, and under the age of forty-five years.

SECT. 3. *And be it further enacted*, That within one year after the passing of this act, the Militia of the respective States, shall be arranged into Divisions, Brigades, Regiments, Battalions and Companies, as the Legislature of each State shall direct; and each Division, Brigade, and Regiment, shall be numbered at the formation thereof; and a record made of such numbers, in the Adjutant General's office, in the State; and when in the field, or in service in the State, each Division, Brigade, and Regiment, shall respectively take rank according to their numbers, reckoning the first or lowest number, highest in rank. That if the same be convenient, each Brigade shall consist of four Regiments, each Regiment of two Battalions, each Battalion of five Companies, each Company of sixty-four Privates. That the said Militia shall be officered by the respective States, as follows: To each Division, one Major General and two Aids-de-Camp, with the rank of Major; to each Brigade, one Brigadier General, with one Brigade Inspector, to serve also as Brigade Major, with the rank of a Major; to each Regiment, one Lieutenant Colonel Commandant; and to each Battalion, one Major; to each Company, one Captain, one Lieutenant, one Ensign, four Sergeants, four Corporals, one Drummer and Fifer, or Bugler. That there shall be a Regimen-

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tal Staff, to consist of one Adjutant, and one Quarter Master, to rank as Lieutenants; one Pay Master, one Surgeon, and one Surgeon's Mate; one Sergeant Major, one Drum Major, and one Fife Major.

Sect. 4. *And be it further enacted*, That out of the Militia enrolled as is herein directed, there shall be formed for each Battalion at least one company of grenadiers, light infantry or riflemen; and that to each Division there shall be at least one company of artillery; and one troop of horse; there shall be to each company of artillery, one Captain, two Lieutenants, four Sergeants, four Corporals, six Gunners, six Bombadiers, one Drummer and one Fifer. The Officers to be armed with a sword or hanger, a fusee, bayonet and belt, with a cartridge box, to contain twelve cartridges; and each Private or Matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and Field Artillery is provided. There shall be to each Troop of Horse, one Captain, two Lieutenants, one Cornet, four Sergeants, four Corporals, one Saddler, one Farrier and one Trumpeter. The Commissioned Officers to furnish themselves with good horses, of at least fourteen hands and a half high, and to be armed with a sword and a pair of pistols, the holsters of which to be covered with bear skin caps. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and a half high, a good saddle, bridle, mail pillion and valise, holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre and cartouch box, to contain twelve cartridges for pistols. That each Company of Artillery, and Troop of Horse, shall be formed of volunteers from the Brigade, at the discretion of the Commander in Chief of the State, not exceeding one Company of each to a Regiment, nor more in number than one eleventh part of the Infan-

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try, and shall be uniformly clothed in regimentals, to be furnished at their own expense; the color and fashion to be determined by the Brigadier commanding the Brigade to which they belong.

SECT. 5. *And be it further enacted*, That each Battalion and Regiment shall be provided with the State and Regimental Colors, by the Field Officers, and each company with a drum and fife, or bugle horn, by the commissioned Officers of the company, in such manner as the Legislature of the respective States shall direct.

SECT. 6. *And be it further enacted*, That there shall be an Adjutant General appointed in each State, whose duty it shall be to distribute orders from the Commander in Chief of the State to the several corps; to attend all public reviews, when the Commander in Chief of the State shall review the Militia, or any part thereof; to obey all orders from him relative to carrying into execution and perfecting the system of Military Discipline, established by this act; to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made; to receive from the several officers of the different corps throughout the States, returns of the Militia under their command, reporting the annual situation of their arms, accoutrements and ammunition, their delinquencies, and every other thing that relates to the general advancement of good order and discipline: all which the several officers of the Divisions, Brigades, Regiments and Battalions, are hereby required to make, in the usual manner, so that the said Adjutant General may be duly furnished therewith; from all which returns he shall make proper abstracts, and lay the same annually before the Commander in Chief of the State.

SECT. 7. *And be it further enacted*, That all Commissioned Officers shall take rank according to the date of their commissions, and when two of

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the same grade bear an equal date, then their rank to be determined by lot, to be drawn by them before the Commanding Officer of the Brigade, Regiment, Battalion, Company or detachment.

SECT. 8. *And be it further enacted*, That if any person, whether officer or soldier, belonging to the Militia of any State, and called into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of, and provided for, at the public expense.

SECT. 9. *And be it further enacted*, That it shall be the duty of the Brigade Inspector, to attend the Regimental and Battalion meetings of the Militia composing their several Brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements; superintend their exercises and manœuvres, and introduce the system of Military Discipline before described, throughout the Brigade, agreeably to law, and such orders as they shall, from time to time, receive from the Commander in Chief of the State; to make returns to the Adjutant General of the State, at least once in every year, of the Militia of the Brigade to which he belongs, reporting therein the actual situation of the arms, accoutrements and ammunition, of the several corps and every other thing, which, in his judgment, may relate to the government and the general advancement of good order and military discipline; and the Adjutant General shall make a return of all the Militia of the State to the Commander in Chief of the said State, and a duplicate of the same to the President of the United States. And whereas sundry corps of Artillery, Cavalry and Infantry, now exist in several of the said States, which, by the laws, customs or usages, thereof, have not been incorporated with or subject to, the general regulations of the Militia:

SECT. 10. *Be it further enacted*, That such corps retain their accustomed privileges, subject

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nevertheless to all other duties, required by this act, in like manner with the other Militia.

And, whereas, Congress, on the second day of March, in the year of our Lord one thousand eight hundred and three, passed the following additional law, entitled,

"*An Act in addition to an Act entitled an Act more effectually to provide for the National Defence, by establishing an uniform Militia throughout the United States.*"

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall be the duty of the Adjutant General of the Militia in each State, to make return of the Militia in each to which he belongs, with their arms, accoutrements and ammunition, agreeably to the directions of the act, to which this is in addition, to the President of the United States, annually, on or before the first Monday in January in each year; and it shall be the duty of the Secretary of War from time to time to give such directions to the Adjutant Generals of the Militia, as shall in his opinion be necessary to produce an uniformity in the said returns, and he shall lay an abstract of the same before Congress on or before the first Monday of February annually.

SECT. 2. *And be it further enacted*, That every citizen duly enrolled in the Militia, shall be constantly provided with arms, accoutrements and ammunition, agreeably to the direction of the said act, from and after he shall be duly notified of his enrolment; and any notice or warning to the citizens so enrolled to attend a company, battalion or regimental muster or training, which shall be according to the laws of the State in which it is given for that purpose, shall be deemed a legal notice of his enrolment.

SECT. 3. *And be it further enacted*, That in addition to the officers provided by the said act,

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there shall be to the Militia of each State one Quarter Master General; to each Brigade one Quarter Master of Brigade; and to each Regiment one Chaplain.

Whereas, Congress, on the 18th day of April, in the year of our Lord one thousand eight hundred and fourteen, passed the following laws, entitled an Act in further addition to an Act, entitled "An act more effectually to provide for the national defence, by establishing an uniform Militia through the United States."

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That in addition to the officers of Militia provided for by the act entitled an Act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States, approved May the eighth, one thousand seven hundred and ninety-two, and by an act in addition to said recited act, approved March the second, one thousand eight hundred and three, there shall be to each Division, one Division Inspector, with the rank of Lieutenant Colonel, and one Division Quarter Master, with the rank of Major; to each Brigade one Aid-de-Camp, with the rank of Captain; and the Quarter Masters of Brigades heretofore provided for by law, shall have the rank of Captain.

And it shall be incumbent on the said officers to do and perform all the duties which by law and military principles are attached to their offices respectively.

Whereas Congress on the twentieth day of April, in the year of our Lord one thousand eight hundred and sixteen, passed the following law, entitled "An act concerning the Field Officers of the Militia."

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That from and after the first day

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of May next, instead of one Lieutenant Colonel Commandant to each Regiment, and one Major to each Battalion of the Militia, as is provided by the act, entitled "An Act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States, approved May the eighth, one thousand seven hundred and ninety two, there shall be one Colonel, one Lieutenant Colonel, and one Major, to each Regiment of the Militia, consisting of two battalions; where there shall be only one battalion, it shall be commanded by a Major: *Provided*, That nothing contained herein shall be construed to annul any commission in the Militia which may be in force as granted by the authority of any State or Territory, in pursuance of the act herein recited, and bearing date prior to the said first day of May next."

And whereas, Congress on the twelfth day of May, in the year of our Lord one thousand eight hundred and twenty, passed the following additional law, entitled, "An Act to establish an uniform mode of discipline and field exercise, for the Militia of the United States:"

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the system of discipline and field exercise which is and shall be ordered to be observed by the regular army of the United States in the different corps of infantry, artillery and riflemen, shall also be observed by the Militia in the exercises and discipline of the said corps respectively, throughout the United States.

SECT. 2. *And be it further enacted*, That so much of the Act of Congress approved the eighth day of May one thousand seven hundred and ninety-two, as approves and establishes the rules and discipline of the Baron de Steuben, and requires them to be observed by the Militia throughout the United States, be, and the same is hereby repealed.

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MILITIA LAW.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That, in addition to the exemptions made by the foregoing laws of the United States, the Justices of the Supreme Judicial Court; all regularly ordained Ministers of the Gospel, of every denomination, while they shall ordinarily officiate as such, and continue in regular standing; all officers, who have heretofore held, or may hereafter hold commissions in the Militia of this State for the term of five years, or shall have been superceded, or whose corps or company shall have been disbanded, and who have been honorably discharged; and every person of the religious denominations of Quakers and Shakers who shall on or before the first Monday of April annually, produce a certificate to the commanding officer of the company within whose bounds such Quaker or Shaker resides; which certificate, signed by two or more of the elders or overseers (as the case may be,) and countersigned by the clerk of the society with which such Quaker or Shaker meets for religious worship, shall be in substance as follows:—

"*We, the subscribers, of the Society of the people called in the town of in the county of do hereby certify that is a member of our Society, and that he frequently and usually attends with said Society, for religious worship, and conforms to the usages of the same, and we believe is conscientiously scrupulous of bearing arms.*

A B. } *Elders or Overseers.*"
C. D. } [as the case may be.]

E. F. *Clerk.*

Notwithstanding their being above the age of eighteen and under the age of forty-five years, be, and

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they are hereby exempted from the performance of military duty; but no other able bodied white male citizen between those ages shall be exempted from military duty except such as are hereinafter excepted.

SECT. 2. *Be it further enacted*, That each of the persons, hereinafter mentioned, may be exempted from the performance of military duty, notwithstanding their being of the age of eighteen years and under the age of forty-five years, viz.: All officers, who have held or may hereafter hold commissions in the Army or Navy of the United States, or in the Militia of any of the United States; and all officers, who have held or may hereafter hold commissions in the Militia of this State for a term less than five years, and have been discharged otherwise than in pursuance of any sentence of a Court Martial; and all staff-officers, who shall have ceased to act as such, in consequence of the resignation, promotion or removal of the *officers, who appointed them; and such Engine men between thirty and forty-five years of age as shall annually produce to the commanding officer of the company within whose bounds they reside, certificates from the Selectmen of their respective towns, that they have been legally appointed and are bound to perform the duties of Engine men, and that there are not more than ten appointed to any one Engine; *Provided*, That each person so exempted shall pay to the Treasurer of the town or plantation, within which such exempt resides, two dollars annually, and produce his receipt therefor to the commanding officer of the company within the bounds of which he resides, on or before the first Monday of April, in each year; *Provided also*, Nothing contained in this section shall be construed to prevent the conditional exempts, therein named, from being called forth to execute the laws of the United States or of this State, to suppress insurrection and repel invasion.

*See additional acts of 11th Feb. 1823 and 25th Feb. 1824.

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SECT. 3. *Be it further enacted*, That all persons liable by law to the performance of military duty, who are or may be between the ages of forty and forty-five years, be, and they hereby are exempted from all military duty, except that of being detached or called forth to execute the laws of the United States, or of this State, to suppress insurrections and repel invasions, and of keeping themselves constantly furnished with the arms and equipments required by the laws of the United States, and the duty of carrying or sending them on the first Tuesday of May annually, to the place of inspection or view of arms of the company within the bounds of which they may reside, and in which they may be enrolled; and the duty of attending the election of company officers.

SECT. 4. *Be it further enacted*, That the said Treasurers shall severally keep a fair account of all monies by them received by virtue of this act, subject at all times to the inspection of any of the commanding officers of the company or companies in the towns, or plantations, to which they belong; and shall annually, on or before the second Wednesday of January, transmit to the Treasurer of the State, a fair account of all monies so by them received; and shall within thirty days thereafter pay the amount thereof into the Treasury of this State, and the same shall there constitute a fund to be appropriated and disposed of as the Legislature shall, from time to time direct, for the sole purpose of arming, equipping and uniforming the militia.

SECT. 5. *Be it further enacted*, That all students of any College, Theological Seminary, or Academy, shall be enrolled and held to do duty only in the towns and plantations, wherein their residence is established according to law.

SECT. 6. *Be it further enacted*, That the Governor be, and he hereby is authorized and empowered, by and with the advice of the Council, to

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organize and arrange the Militia of this State, conformably to the laws of the United States, and to make such alterations therein, as from time to time, may be deemed necessary. And that all applications or petitions for raising companies at large, and for alterations in the arrangement of the militia, shall be made to the Governor, and he, by and with the advice and consent of the Council, is hereby authorized to grant such petitions or applications as to him may appear proper: *Provided*, The present organization and arrangement of the militia shall continue until the Governor, with advice of the Council, shall otherwise order.

SECT. 7. *Be it further enacted*, That the commissioned officers of the militia, named in the aforesaid laws of the United States, shall be chosen and appointed in manner following:

The Major-Generals	To be chosen by the Senate and House of Representatives, each having a negative on the other, and to be commissioned by the Governor.
The Adjutant-General and Quarter-Master General	To be appointed by the Governor, with the advice of Council, with the rank of Brigadier-General.
The Division Inspectors	To be appointed by the Major-Generals of their respective Division, with the rank of Lieut. Colonel.
The Aids-de-Camp of the Major-Generals	To be appointed by their respective Major-Generals, with the rank of Major.
The Division-Quarter-Masters.	To be appointed by the Major-Generals of their respective Divisions, with the rank of Major.
The Brigadier-Generals	To be chosen by the written votes of the Field Officers of their respective Brigades.
The Brigade-Majors	To be appointed by their respective Brigadier Generals, with the rank of Major.
The Aids de Camp & Quarter-Masters of Brigades	To be appointed by the Brigadier-Generals of their respective Brigades, with the rank of Captain.

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The Field Officers of Regiments and Battalions	To be chosen by the written votes of the Captains and Subalterns of their respective Regiments and Battalions.
The Captains and Subalterns of Companies	To be chosen by the written votes of the members of their respective companies.
The Adjutants, the Quarter-Masters, and the Pay-Masters of Regiments	To be appointed by the Colonels of their respective Regiments with the rank of Lieutenant.
The Chaplains, the Surgeons, and the Surgeons' Mates, of Regiments	To be appointed by the Colonels of their respective Regiments.

And the aforenamed Officers shall be commissioned by the Governor.

SECT. 8. *Be it further enacted*, That the non-commissioned officers, named in the aforesaid laws of the United States, shall be appointed in the manner following:

The non-commissioned Officers of Companies	To be appointed by the Captains of their respective Companies, who shall forthwith make return thereof to the commanding officer of their respective regiments or battalions, and they shall grant them warrants accordingly.

SECT. 9. *Be it further enacted*, That in addition to the commissioned and non-commissioned Officers above enumerated, the following Officers and non-commissioned Officers shall be appointed in the manner following:

Aids-de-camp to the Commander in Chief, not to exceed four in number	To be appointed and commissioned by the Governor, with the rank of Lieutenant Colonel.
A Judge Advocate for each division	To be nominated by the Major General of each Division, and if approved by the Governor, to be commissioned by him, with the rank of Major.
An Adjutant and a Quarter Master to each battalion of artillery and cavalry	To be appointed by the commanding Officers of their respective Battalions, and to be commissioned by the Governor, with the rank of Lieutenant.

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A Quarter Master Sergeant & a Sergeant Major to each regiment, & a Drum & Fife Major, Master, Deputy Master & Musicians of the Regimental Bands	To be appointed by the Colonels of their respective Regiments, who shall grant them warrants accordingly.
A Quarter Master Sergeant to each battalion of artillery and cavalry	To be appointed by the commanding officers of their respective battalions, who shall grant them warrants accordingly.

SECT. 10. *Be it further enacted*, That each major-general be and he hereby is authorized, and it shall be his duty, from time to time to give all such orders, as may be necessary, for filling by election any vacancy or vacancies of brigadier-general, field officer, captain or subaltern, which does now or may hereafter exist, within his division. And previous to any such election, the electors shall have ten days notice thereof at least; and all returns of elections, or of neglects, or refusals to elect, shall be made to the Commander in Chief, by the major-generals in whose divisions such elections shall have been ordered; and in case of neglect or refusal by the electors to elect any officer, when duly notified and ordered thereto, the Governor, with advice of Council, shall appoint some suitable person to fill such vacancy. And all commissions shall be transmitted to the Major-Generals and be regularly passed down to the persons entitled to receive them. And every person, who shall be elected to any office as aforesaid, and shall not within ten days, after he shall have been notified of his election, by the officer who presided thereat, (excepting in case of the choice of major-general, who shall be allowed thirty days after he shall be notified by the Secretary of this State,) signify his acceptance thereof, shall be considered as declining to serve, and orders shall be forthwith issued for a new choice. And the commission of every officer shall designate the Division, Brigade, Regiment or Battalion, and the Corps in

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which he shall be commissioned, and all officers shall take rank from the day of their elections or appointments respectively, which shall be designated in their commissions. And whenever an officer is transferred from one corps or station to another in the same grade, the day of the date of his original appointment or election shall be expressed in his new commission, and that day be considered the date of his commission. And when an officer shall, by fire or other casualty, lose his commission, upon his making an affidavit thereof, before any judge or justice of any court of record, in the county where he resides, on such affidavit being produced at the Adjutant-General's office, he shall be entitled to receive a new commission of the same tenor and date as the one so lost as aforesaid. And all officers when on duty shall take rank by the dates of their commissions as above defined. And when two or more officers of the same grade are on duty together, and their commissions bear an equal date, and former pretensions of some commission do not decide, then their relative rank with each other shall be determined by lot, to be drawn by them before the commanding officer present, and when on court martial before the president thereof.

SECT. 11. *Be it further enacted*, That every officer, duly commissioned in pursuance of the provisions of this act, shall, before he enters upon the discharge of the duties of his office, take and subscribe the oaths required by the constitution, before some justice of the peace, or before some superior field, or general officer, or staff officer of the rank of field officer, who has previously taken and subscribed them himself. And on the back of every military commission the following form of certificate of qualification shall be printed.

"STATE OF MAINE.

This may certify, that —— ——, *commissioned as within, on this* ——— *day of* ——, *A. D.* 18 ,

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personally appeared and took and subscribed the oaths, required by the Constitution of this State, to qualify him to discharge the duties of his office.

Before me, —— ——, ——."

SECT. 12. *Be it further enacted,* That to every company there shall be a clerk, who shall be one of the sergeants, and he shall be appointed by the captain or commanding officer of the company, and on the back of his warrant as sergeant, the captain or commanding officer of the company, shall in writing certify, that he does thereby appoint him to be clerk of the company. And before such clerk enters upon the duties of his clerkship, he shall be sworn to the faithful discharge of his duty, by taking the following oath before the captain, or commanding officer of the company to which he belongs, who is hereby authorized to administer the same, viz.

"*I, A. B. do solemnly swear, that I will faithfully and impartially perform all the duties, incumbent on me, as clerk of the company to which I belong according to the best of my abilities and understanding. So help me God.*"

And the captain or commanding officer of the company shall at the time of his administering said oath, certify on the back of the warrant of the sergeant appointed to be clerk that he was duly qualified, by taking the oath required by law. And it shall be the duty of the clerk to keep a fair and exact roll of the company, together with the state of the arms and equipments, belonging to each man, which roll he shall annually revise, in the month of May, and correct the same, from time to time, as the state of, and alterations in, the company may require; to register all orders and proceedings of the company, in the orderly book; to keep exact details of all drafts and detachments; to assist the commanding officer of the company, in the enrolment thereof, and also in enrolling of all such persons without partiality or favor, liable to any military

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duty, coming to live within his company bounds, as he may from time to time be informed thereof; to distribute all company orders and notifications, which he may be required to do; to examine the equipments of the men, when ordered; to note all delinquencies, to sue for and recover all fines and forfeitures, which are required by this act, to be sued for, and recovered by him; to keep accounts in the orderly book of all fines and forfeitures, and all other monies, collected by him, with the persons' names, of whom they were collected, and of the times when, and for what offence, neglect, default, or deficiency; which book shall not be alienated from the company, and shall always be open to the inspection of any officer of the company.

SECT. 13. *Be it further enacted*, That the officers of the militia, (chaplains excepted) while on duty, shall wear a uniform dress, to consist of a blue cloth coat, with gilt* buttons with a star raised thereon, and other articles of dress of such color and fashion, and with such equipments as shall be prescribed by the Commander in Chief; except where the same is regulated by the laws of the United States.

SECT. 14. *Be it further enacted*, That every officer, non-commissioned officer, and private, shall hold his uniform exempted from all suits, distresses, executions or sales for debt, or the payment of taxes. And no officer, non-commissioned officer, nor private shall be arrested on any civil process, during his going unto, returning from, or his performance of military duty; nor during his going unto, remaining at, or returning from any place, at which he may be ordered to meet for the election of any officer or officers. And no officer shall be arrested on any civil process while going unto, serving upon, or returning from any court martial, court of inquiry, or board of officers, upon which it may be the duty of such officer to attend.

*So much of this section as relates to the *colour* of the button is *repealed*.

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SECT. 15. *Be it further enacted*, That every officer, non-commissioned officer and private of infantry, light infantry, cavalry, artillery, grenadiers and riflemen, shall constantly keep himself furnished and provided with arms and equipments required by the laws of the United States before recited, except such private as shall not be able so to provide himself. And no private shall be considered unable to provide himself with the arms and equipments required as aforesaid, unless he shall produce, after the first day of April and before the first Tuesday of May annually, to the commanding officer of the company to which he belongs, a certificate of such inability from the overseers of the poor, of the town or district where he resides. And the commanding officer of the company to which such private belongs, shall forthwith lay such certificate before the selectmen of the town or district where such private resides. And it shall be the duty of such Selectmen, forthwith, at the expense of their respective towns or districts, to provide for every such private, the arms and equipments required as aforesaid, and they shall deposite the same in some safe and convenient place, and shall permit the commanding officer of the company, to which such private, unable to provide himself, as aforesaid, belongs, to deliver such arms and equipments to such private, whenever his company shall be ordered out for any military duty. And the said commanding officer shall be responsible for the safe return of such arms and equipments to the place of deposit.

SECT. 16. *Be it further enacted*, That whenever the office of major-general, brigadier-general, colonel, major commandant, or of captain, shall be vacant, the officer next in grade and in commission, in the division, brigade, regiment, battalion, or company, shall exercise the command, and perform the duties thereof, until the vacancy shall be supplied. And in case of the sickness, absence, or

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other inability of the clerk of any company, the commanding officer thereof is hereby authorized to appoint a clerk pro tempore, who shall be duly sworn before he enters on the duties of the office; and shall for the time expressed in his appointment or until specially discharged, have all the powers, and be subject to all the duties, and be liable to all the penalties of the clerk, in whose place he is put. And whenever a company shall have neither officers nor non-commissioned officers, the commanding officer of the regiment or battalion, to which such company belongs, shall appoint suitable persons within said company to be non-commissioned officers of the same, and grant them warrants accordingly, one of which non-commissioned officers he shall appoint clerk, and shall endorse the warrant of the non-commissioned officer, appointed clerk, and administer the oath to him, as required by the commanding officers of companies, in the twelfth section of this act, and the senior non-commissioned officer of a company, while there are no commissioned officers in office, shall command the same; and all the authorities and powers of commanding officer shall be vested in him, until some commissioned officer shall be chosen or appointed and has qualified himself: *Provided however*, That when a company, destitute of commissioned officers, shall parade with other troops, the commanding officer present shall assign some commissioned officer or officers to such destitute company, to command the same while on parade.

Sect. 17. *Be it further enacted*, That each brigade, where there are now, or may hereafter be two companies of artillery, they shall form a battalion, and be entitled to a major, an adjutant, and a quarter master; that in each brigade, where there are now, or shall hereafter be, three companies of artillery, they shall still form one battalion, and that in each brigade, where there are now, or may here-

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after be, four companies of artillery, they shall form a regiment of two battalions, and be entitled to a colonel, lieutenant colonel and major. And each company of artillery shall be provided by the quarter-master-general with two good brass field pieces, of such calibre as the Commander in Chief may direct, with carriages and apparatus complete; an ammunition cart, forty round shot, and forty rounds of cannister shot; also tumbrils, harness, implements, laboratory, and ordnance stores, which may from time to time be necessary for their complete equipment for the field. And the Commander in Chief shall order to be issued, to each company of artillery, annually, a quantity of powder, not exceeding forty pounds, which shall be expended on days of inspection or review, and in experimental gunnery. And the commanding officer of every company of artillery shall be accountable for the careful preservation of the pieces, and all the apparatus aforesaid, appertaining to their equipment, and for the proper expenditure of the ammunition supplied by the government. And the commanding officer of every company of artillery shall lay before the committee on accounts for allowance, his accounts of money actually expended in providing horses to draw the field pieces and tumbril of his company: *Provided however*, no allowance shall be made, unless such company is ordered to appear at a battalion, regimental, brigade or division inspection or review, or unless such company is ordered on duty by the Commander in Chief. And each commanding officer of a company of artillery is hereby authorized to enlist three drivers, who, when enlisted, shall be exempted from other military duty, except that of keeping the harnesses and apparatus of the carriages, belonging to the company, in good order.

Sect. 18. *Be it further enacted*, That where there are now, or may hereafter be, two companies

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of cavalry in a brigade, they shall form a battalion, and be entitled to a major, an adjutant, and a quarter master. And in those brigades, where there are now, or may hereafter be, three companies of cavalry, they shall still form a battalion; and in each brigade, where there now, or may hereafter be, four companies of cavalry, they shall form a regiment of two battalions, and be entitled to a colonel, lieutenant colonel and major. And if any non-commissioned officer or private of any company of cavalry shall be destitute of a suitable horse and furniture for more than two months, at one time, it shall be the duty of the commanding officer of the company immediately to apply to the brigadier-general of the brigade, who may discharge such non-commissioned officer or private from such company, and cause him to be enrolled in the standing company, within whose bounds he resides; and if he be a non-commissioned officer, he shall be considered as reduced to the ranks. And when any draft or detachment shall be made from any company of cavalry for actual service, the men drafted or detached shall march with their own horses, and before they march, if there be time, the horses shall be appraised by three impartial men, to be appointed by the commanding officer of the brigade, to which the company belongs, from which the draft or detachment is ordered.

Sect. 19. *Be it further enacted*, That no company of cavalry, artillery, light infantry, grenadiers, or riflemen, shall be raised at large when any of the standing companies shall thereby be reduced to a less number than forty-eight effective privates; and if any officer of cavalry, artillery, light infantry, grenadiers, or riflemen, shall enlist any men, belonging to a standing company, or residing within the bounds thereof, for the purpose of forming or recruiting his company, when by means thereof such standing company would be reduced to a less num-

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ber than forty-eight effective privates borne on the company roll, exclusive of those between the ages of forty and forty-five years, such enlistment shall be void. And if any company, raised at large, shall at any time be destitue of commissioned officers, and shall neglect to fill the vacancies for two months, after being ordered to choose officers to fill them, or if any such company shall be reduced to a less number than twenty privates, and remain so for three months, then in either case, as aforesaid, such company shall be disbanded, and the men which belonged to such delinquent company shall be enrolled in the standing company within the bounds of which they respectively reside. And all companies, raised at large, and not annexed to any particular regiment, shall be subject to the orders of the commanding officer of the brigade in which they have been raised; and shall make their elections of officers in the same manner as other companies, but shall make their returns of elections to the commanding officer of the brigade. And at all parades of regiments, the companies commanded by the two senior captains shall act as light infantry companies, except where companies of light infantry, grenadiers, or riflemen, have been or may be hereafter raised and annexed to the regiment.

SECT. 20. *Be it further enacted*, That each Colonel or Commanding Office rof a regiment, be and he hereby is authorized to raise, by voluntary enlistment, within his own regiment, or any adjoining regiment, with the written consent of the Commanding Officer of such Regiment, and organize and establish within his Regiment a band of music not to exceed twenty musicians, including one master & one deputy master, and the Colonel and [or] Commanding officer shall grant the musicians, deputy master, and master of such band warrants as such.

And each band shall be under the direction of the Commanding Officer of the Regiment in which it is organized.

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And it shall be the duty of the master and deputy master, to teach, lead and command such band, and to issue all such orders as they may be, by their Colonel or Commanding Officer, authorized to do for these purposes.

And each master, deputy master and musician shall constantly keep himself provided with the uniform of the band to which he belongs, which uniform is to be prescribed in the same manner as the uniform of the Regiment to which the band belongs —and shall also keep himself constantly provided with such instrument or instruments, as may be directed by the Commanding Officer of the Regiment.

And the bands belonging to the Regiments, shall also be under the Brigadier General or the Commanding Officer of the Brigade (the senior master present, having the direction of said bands,) wherever the said regiments shall meet in Brigade.

And if any master, deputy master or musician shall be guilty of any neglect of duty, disobedience of orders, disorderly or other unmilitary conduct, he shall forfeit not less than five nor more than twenty dollars, for each offence, one half thereof to the use of the officer, suing therefor, and the other half to the Colonel of the Regiment, to which the offender may belong, for the purchase and repair of musical instruments for said band, to be sued for by the Adjutant of the regiment; or by the Brigade Major of the Brigade, if assembled in Brigade; in an action on the case before any justice of the Peace in the county where the offender resides, and no appeal shall be allowed to either party; and such master, deputy master or musician, shall moreover be liable to be removed from the band at the discretion of the Colonel or Commanding Officer of the Regiment, within which such band is organized, and shall forthwith be enrolled as a private in the standing company, within the bounds of which he resides.

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And each master, deputy master and musician of a band, shall be exempted from all military duty while belonging to the band, excepting such as shall be required of him by the Colonel or Commanding Officer of the Regiment, or by the Brigadier General or commanding officer of the Brigade when the Regiments are assembled in Brigade.

SECT. 21. *Be it further enacted*, That every Commanding Officer of a company shall parade his company on the first Tuesday of May annually, at one of the clock in the afternoon, for the purpose of inspecting, examining, and taking an exact account of all the equipments of his men, and for noting all delinquencies of appearance, and deficiencies of equipment, and for correcting his company roll, in oder, that a thorough inspection of each company in the State may be made. And it shall be the duty of every commanding officer of a company, to parade his company by his own order, on two several days in the year for training, in addition to the company inspection aforesaid; and on the three several days of training and inspection, to use his best exertions, in instructing and perfecting his men, in their company exercise and evolutions. And whenever the commanding officer of a company, shall order out his company for inspection or training, or for any battalion, regimental, brigade, or division inspection or review, he shall issue his orders to some one or more of the non-commissioned officers or privates of his company, requiring him or them, to notify the men belonging to his company to appear at the time and place appointed; and it shall be the duty of the non-commissioned officer or officers, private or privates, so ordered as aforesaid, to give notice of the time and place appointed for the parade of said company, to each and every man, he or they shall have been ordered to notify, either verbally or by delivering to each man in person, or by leaving it at his usual place of abode, a written or

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printed order. And no notice shall be legal, for any company inspection or training, or for any battalion, regimental, brigade or division inspection or review, unless the same shall be given four days at least previous to the time appointed therefor. *Provided always*, that in case of invasion, insurrection, or other emergency, any notice, however short, shall be legal and binding. And in all cases the testimony of the clerk, or any other non-commissioned officer or private, who shall have received orders to notify the whole or any part of the men of any company to appear at a time and place appointed, for any military duty, shall be conclusive to prove, that due notice was given to the party prosecuted, unless such testimony be invalidated by other evidence. And whenever any company shall be paraded, the commanding officer of such company is hereby authorized verbally to notify the men so paraded, to appear on some future day not exceeding thirty days from the time of such notification, and such notice shall be legal as it respects the men present: *Provided*, That no soldier shall be compelled to perform more than four days military duty in one year, except in time of war or public danger, and for choice of officers.

SECT. 22. *Be it further enacted*, That every commanding officer, when on duty, is hereby authorized to ascertain, and fix necessary limits and bounds to his parade, (no road in which people usually travel to be included) within which no spectator shall have a right to enter, without liberty from such commanding officer; and in case any person shall intrude within the limits of the parade, after being once forbidden, he shall be subject to be confined under guard during the time of the parade, or a shorter time at the discretion of the commanding officer.

SECT. 23. *Be it further enacted*, That in all cases of doubt respecting the age of any person intended

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to be enrolled, the party questioned as to his age shall prove the same to the satisfaction of the enrolling officer; and if any person liable to military duty, upon application to him personally by the commanding officer of the company, within the bounds of which such person resides, or upon application by any person acting under such commanding officer, shall either refuse to give his name, or not give his name truly, every such person, so offending, shall forfeit twelve dollars, to be sued for by the clerk of the company in an action on the case before any Justice of the Peace of the county where such offender resides.

SECT. 24. *Be it further enacted*, That when any non-commissioned officer or private in any company, shall receive orders from the commanding officer of such company, to notify and warn such company, or any part thereof, to meet for the purpose of choosing any officer or officers, it shall be the duty of such non-commissioned officer or private to give every person he is so ordered to warn, verbal notice, or to leave him a written or printed notification at his usual place of abode, specifying the time, place and purpose of said meeting; and no election of a company officer shall be valid in future, unless a majority of the voters of the company are present at the election.

SECT. 25. *Be it further enacted*, That each and every captain or commanding officer of any company is hereby empowered to enlist, as musicians for his company, and within the bounds of the same not exceeding two drummers and two fifers, or one fifer and one bugler, for and during the term of seven years, unless sooner discharged by removal to such distance from the said company, as to render it inconvenient for said musician to perform the duties required of him, or by reason of some other good and legal excuse. And any such musician, so enlisted, who after having been duly notified and

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warned shall refuse to perform his duty as musician at all legal meetings of said company, shall forfeit and pay for every such offence the same sum, as would be forfeited by any noncommissioned officer or private for non-appearance at any of said meetings; and in case of removal or discharge of any such musician, the said captain, or commanding officer may from time to time enlist other musicians to fill such vacancy or vacancies.

Sect. 26. *Be it further enacted*, That every town and plantation within this State shall provide and deposit, and constantly keep provided and deposited in some suitable and convenient place within said town or plantation, thirty-two pounds of good gunpowder; one hundred pounds of musket balls, each of the eighteenth part of a pound; one hundred twenty-eight flints, suitable for muskets; three copper, iron, or tin camp kettles, for every sixty-four soldiers enrolled within said town or plantation, except artillerists; and the same proportion of the aforesaid articles for a greater or a less number of soldiers enrolled as aforesaid. And every town or plantation, which shall neglect to keep itself constantly provided with the articles aforesaid, and in the proportions aforesaid, shall forfeit and pay to the use of the State, a sum not exceeding five hundred dollars, nor less than twenty dollars, according to the nature and degree of the neglect, to be recovered by indictment or information in any court of competent jurisdiction. And it shall be the duty of each quarter master of Regiments of Infantry to cause every town or plantation within the bounds of his Regiment, to be prosecuted or presented, which town or plantation he shall find upon his inspection to be deficient, either in the quality or quantity of military stores, required to be provided as aforesaid, or which he shall find to have neglected to make the provisions, or any part thereof required as aforesaid.

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SECT. 27. *Be it further enacted*, That it shall be the duty of the Quarter Master of each Regiment of Infantry, in the month of October annually, personally to examine, view and inspect the military stores, to be provided by every town and plantation as aforesaid, of each town and plantation within the bounds of his Regiment, and to make out a return of all the articles of stores, with their quality and condition in which he shall note all defects and deficiencies and shall transmit an attested copy thereof to the Quarter Master of the Brigade, on or before the first day of November in the same year, and where in any town or plantation there are now, or may hereafter be companies belonging to more than one Regiment, the Quarter master of the senior regiment shall perform the duties aforesaid. And the Brigade Quarter master shall form an abstract of all such returns and transmit an attested copy thereof to the Division Quarter Master, on or before the first day of December in the same year. And the Division Quarter Master shall form an abstract of all such Brigade returns, and transmit an attested copy thereof to the acting Quarter Master General of the State, on or before the first day of January annually. And the Quarter Master General shall form an abstsact of such Division returns. And each said officer shall record the abstract, so by him made, in a book to be kept for that purpose, which books shall never be alienated from the corps, to which such officers respectively belong, and shall at all times be open for the inspection of the commanding officers of said corps, and of the Selectmen of the towns and of the Assessors of Plantations, in which such military stores were deposited.

SECT, 28. *Be it further enacted*, That it shall be the duty of the several adjutants of regiments, and of battalions, annually to form a correct abstract of the returns of the several companies, composing his regiment or battalion, containing the names of the

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commanding officers of the several companies, the number of non-commissioned officers, musicians, and privates, respectively belonging thereto, with their arms and equipments, and transmit the same, signed by the commanding officer of his regiment or battalion and countersigned by himeelf, to the Brigade Inspector of his brigade on or before the first day of July in the same year; and it shall be the duty of the several Brigade inspectors to make out correct returns from the Adjutants' returns and to transmit the same signed by the commanding officers of brigades and countersigned by themselves, to their division inspectors on or before the first day of August in the same year; and it shall be the duty of the several division inspecters to form similar returns from said brigade returns and to transmit the same signed by the commandiag officers of divisions and countersigned by themselves, to the office of the Adjutant General on or before the first day of October in the same year. And it shall be the duty of the Adjutant General to form, sign and transmit one correct return of all such division returns to the Commander in Chief, and one to the President of the United States on or before the first day of January annually. And it shall be the duty of the several commanding officers of regiments, brigades and divisions, to cause such abstracts and returns to be made and transmitted within the several times aforesnid, in all cases of absence or inability of the several staff-officers aforesaid or of vacancy in their offices. And it shall be the duty of each such staff-officers to record the returns by him made, in a book, to be kept for that purpose and which shall not be alienated from the corps, to which such officers respectively belong. And it shall be the duty of the Adjutant General to furnish such officers with proper books, and from time to time, with blanks, containing proper forms of the abstracts and returns aforesaid.

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SECT. 29. *Be it further enacted*, That the selectmen of every town,* and assessors of plantations shall supply at the expence of such town or plantation, or cause the commanding officer of each company within said town or plantation, to be supplied with one quarter of a pound of good powder made into suitable blank catridges, for each non-commissioned officer and private borne on the company roll of such commanding officer, exclusive of those between forty and forty five years of age, whenever such commanding officer's company is ordered to parade for review: *Provided*, such commanding officer makes a written application therefor, four days previous to such review, stating therein the number of men to be supplied; and each commanding officer of such company shall return or account with said Selectmen for all powder he may have received over and above one quarter of a pound for each man actually on parade at the muster for which such powder was drawn.

SECT. 30. *Be it further enacted*, That whenever in case of threatened or actual invasion, insurrection or other public danger or emergency, the militia shall be ordered out, or any part thereof, shall be ordered to be detached or drafted by the Commander in chief, any person who shall be ordered out, detached, or drafted in pursuance of, and obedience to such orders, and being notified thereof and ordered to march to the place of rendezvous, and shall neglect or refuse to obey such orders, and shall not within twenty-four hours, after he shall have been notified as aforesaid, pay a fine of fifty dollars, to the commanding officer of the company to which he belongs, or procure an able bodied man in his stead, such person shall be considered as a soldier, belonging to the detachment, and be dealt with accordingly. And all fines paid as aforesaid, shall be appropriated to the hire of men to complete the detachment. And the officers of any detachment, or-

* See additional act passed February 25, 1824.

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dered to be made as aforesaid, shall be regularly detailed from the rosters, and the non-commissioned officers and privates by lot from the company rolls: And when any company shall not be organized, the officer commanding the brigade or regiment, shall either by himself or some officer under him, proceed to make and complete the detachment, from such unorganized company. And whenever the militia or any part thereof, after having been ordered out or detached as aforesaid, and shall be ordered to march for the service of this State, each non-commissioned officer and private, so ordered to march, shall provide and take with him three days provisions, unless otherwise ordered. And the Selectmen of every town and the assessors of every plantation to which the men detached as aforesaid, and ordered to march forthe service of this State, belong, shall provide and cause carriages to attend them with further supplies and provisions, and also the necessary camp equipage and camp utensils, until notice shall be given them by the commanding officer of the detachment to desist, and the Selectmen and Assessors shall present their accounts for supplies to the Legislature for allowance. And whenever the Selectmen of any town or Assessors of any plantation, from which a detachment or part thereof as aforesaid shall march, and being notified by the commanding officer of such detachment or part thereof belonging to such town or plantation, and shall neglect or refuse to furnish the necessary supplies, camp equipage and camp utensils, the town or plantation to which the Selectmen or Assessors, neglecting or refusing as aforesaid, belong, shall forfeit not less than two hundred nor more than five hundred dollars, to be sued for and recovered by any person, who may prosecute for the same, in an action on the case, in any court of competent jurisdiction, one moiety to the prosecutor, and the other to the use of the State. And the officer to whom, or by whose order any

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camp equipage or camp utensils, shall be delivered, shall be accountable for the same, unless injured or lost by some accident not in his power to prevent.

SECT. 31. *Be it further enacted*, That all the troops of each division shall be paraded once in each year for review, inspection and discipline, either in brigades, regiments, or battalions of regiments, (regard being had to the scattered or compact situation of the troops) at such times as the commanding officer of the divisions may order. And when a brigade review or inspection is ordered, the commanding officer of the brigade shall appoint the place, and give notice thereof to the commanding officer of the division; when a regimental review or inspection is ordered, the commanding officer of the regiment shall appoint the place, and give notice thereof to the commanding officer of the brigade; and when a review or inspection of a regimental battalion is ordered, the commanding officer of the regiment shall appoint the place, and give notice thereof to the commanding officer of the brigade. And the places to be appointed for reviews or inspections as aforesaid, shall always be as central as, in the judgment of the officer pointing out the place, convenience will admit. And the artillery, cavalry, and other troops raised at large, and not annexed to any particular regiment, shall be reviewed and inspected once in each year, either by themselves, or with the brigades, regiments, or battalions of regiments, as the commanding officer of the respective divisions may order and direct: *Provided*, That no officer, non-commissioned officer or private, shall be obliged to travel more than fifteen miles to any Brigade review.

SECT. 32. *Be it further enacted*, That no officer, non-commissioned officer or private shall be holden to perform any military duty on any day (except on days which are or may be specially prescribed by law) on which the selectmen of the town in

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which such officer, non-commissioned officer or private resides, shall appoint a meeting for the election of a representative to the Legislature, nor shall there be any military parade on the day pointed out by the constitution of this State for the election of governor, and senators, nor on any day which may be appointed for the choice of electors of President and Vice President of the United States, or representatives to Congress. And it shall not be lawful for any officer to parade his men on either of said days, unless in case of invasion made or threatened, or in obedience to the orders of the commander in chief, except as is herein before excepted.

SECT. 33. *Be it further enacted,* That each regiment of Infantry and each battalion of cavalry or artillery shall be furnished with the State colors; and each company of infantry, artillery, light infantry, grenadiers and riflemen, shall be furnished with a drum and fife, or bugle horn, and each company of cavalry with a trumpet; and each brigadier-general after the first day of August next ensuing, is hereby authorized to draw orders upon the quarter-master general, in favor of the commanding officers of regiments, battalions, and companies, for the above purposes, that the several regiments, battalions and companies may be supplied as aforesaid. And the commanding officers of regiments and battalions shall be responsible for the safe keeping of their colors; and the commanding officers of companies shall be responsible for the safe keeping of the drums, fifes, bugle horns, and trumpets, delivered to them for the use of their companies; and it shall be the duty of the Quarter Master General to furnish such colors and musical instruments, and to present his accounts therefor to the Legislature for allowance. And the Adjutant General shall furnish blank orders for the commanding officers of companies to order their non-commissioned officers and privates to notify their men

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to attend all the inspections, trainings and reviews, and meetings for the choice of officers, which shall be ordered; also blank notifications or orders, to be left with the men by the non-commissioned officers or privates, ordered to notify as aforesaid; and Clerk's complaints to Justices of the Peace; and it shall not be necessary that seals be affixed to any orders whatever.

SECT. 34. *Be it further enacted*, That all parents, masters or guardians, shall furnish all minors enrolled in the militia, who shall be under their care respectively, with the arms, and equipments, required by this act; and if any parent, master, or guardian, having any minor under his care, enrolled as aforesaid, shall neglect to provide such minor with the arms and equipments, required by this act; or if said minor shall absent himself from any meeting of the company, to which he belongs, required by law, without sufficient excuse, the said parent, master or guardian is hereby subjected and made liable to the same forfeitures as such minor would be liable to, for a like deficiency, neglect or non-appearance, if such minor were of age; and all persons liable by this act to do military duty, shall be allowed six months, immediately from and after their arrival at the age of eighteen years, and not afterwards, within which to furnish themselves with the arms and equipments required by law: *Provided however*, That such parents, masters, or guardians as shall produce, on or before the first Tuesday of May annually, certificates from the overseers of the poor of the town or district in which they reside, of their inability to provide arms and equipments as aforesaid, to the commanding officer of the company in which the minor under their care is enrolled, shall be exempted from the forfeitures aforesaid.

SECT. 35. *Be it further enacted*, That no non-commissioned officer or private of any company shall be exempted from military duty on account of

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bodily infirmity, unless he shall obtain from the surgeon or surgeon's mate of the regiment to which he belongs, if either of those officers are commissioned in such regiments, if not, from some respectable physician, living within the bounds of the same, a certificate that he is unable to perform military duty on account of bodily infirmity, the nature of which infirmity is to be described in said certificate, and the commanding officer of the company may, on the back of such certificate, discharge the non-commissioned officer or private, named therein, from performing military duty, for such a term of time, as he shall judge reasonable, not exceeding one year, which certificate, if approved and countersigned by the commanding officer of the regiment, or battalion, to which the disabled non-commissioned officer or private belongs, shall entitle him to exemption from military duty for the time specified. And any non-commissioned officer or private, having obtained a certificate as aforesaid, and who may be refused a discharge, may apply to the commanding officer of the regiment for further examination of his case, and if on such examination, the commanding officer of the regiment shall be well satisfied that the bodily infirmity of such non-commissioned officer or private is such that he ought to be discharged, he is hereby authorized to discharge him from military duty for such time as he shall judge reasonable, not exceeding one year, which being certified by the commanding officer of the regiment on the back of the certificate, shall discharge the non-commissioned officer, or private, from military duty, for the time specified by the commanding officer of the regiment.

Sect. 36. *Be it further enacted*, That if any non-commissioned officer or private shall be killed, or die of wounds received when on any military duty required by this act, his widow, child, or children, shall receive from the Legislature such relief as

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shall be just and reasonable. And if any officer, non-commissioned officer, or private, shall be wounded, or otherwise disabled when on such duty, he shall receive from the State just and reasonable relief.

COURTS MARTIAL.

SECT. 37. *Be it further enacted*, That the commander in Chief shall appoint general courts martial for the trial of all officers above the rank of captain; and the major-generals, or commanding officers of divisions, each within his own division, shall appoint division courts martial, for the trial of captains and officers under that rank; and whenever a court martial is ordered, the officer ordering it shall appoint the president and marshal of the same; and if it be a general court martial, orders shall be issued to such divisions, as, in the opinion of the Commander in Chief, may most conveniently furnish the members thereof; if it be a division court martial, orders shall be issued to such brigades, regiments, battalions, or companies within the division, as in the opinion of the major-general or commanding officer of the division, may most conveniently furnish the members thereof. The president of a general court martial shall in no case be under the rank of brigadier general, and the president of a division court martial shall in no case be under the rank of colonel; and if any such officer appointed to serve as president of such court shall be sick or necessarily detained from serving, the officer who ordered the court, shall, as soon as advised thereof, and without delay, appoint some other officer of the same grade to be president of said court, who shall forthwith on receiving notice thereof, repair to the place where the court was ordered to sit, provided the time for sitting of said court has arrived. And whenever the commanding officer of a division, brigade, regiment, or battalion, shall be ordered to furnish any officer or officers, as member or members, supernumerary or supernume-

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raries of a court martial, such officer or officers, including staff-officers, shall be regularly detailed from the roster of the division, brigade, regiment, or battalion by the commanding officers thereof, respectively, forthwith, after having received orders therefor as aforesaid; and the commanding officers of divisions, brigades and regiments, shall furnish the officers next below them in grade, with a certified copy of the rosters of the staff officers respectively; but no staff officer shall be detailed to serve on any court martial or court of inquiry in any case where the officer who appointed such staff officer is to be tried, or has preferred charges against another officer: *Provided however*, That in case of inability, sickness or absence of any officer whose turn it would be to serve on a court martial, the detailing officer shall certify such circumstance to the officer who ordered the court martial, and detail the officer next in rotation. And the officers, ordered to be detailed to serve on courts martial, shall be detailed in the following manner: Major Generals, by the Commander in Chief, or his orders, from the general roster; brigadier-generals by the commanding officers of divisions, from the division rosters; colonels, lieutenant-colonels and majors, by the commanding officers of brigades, from the brigade rosters; and captains and subalterns, by the commanding officers of regiments or battalions from the regimental or battalion rosters, as the case may be. All general courts martial shall be constituted of a president, a judge advocate, six members, and a marshal; and every division court martial shall consist of a president, a judge advocate, a marshal and four members. And the officer appointing a court martial, may at his discretion, order a number of officers, not exceeding two, to be detailed as supernumeraries, in addition to the number intended to serve as members, to attend the court at the organization thereof; and in case there should be any vacancy or vacancies,

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the judge advocate shall fill such vacancy, or vacancies, from the supernumeraries, begining with the highest in grade and proceeding in regular rotation. All officers on a court martial shall take rank by seniority of commission, without regard to corps.—Before any court martial shall proceed to the trial of any officer, the judge advocate shall administer to the president and each of the members, singly, the following oath :

You, A. B. *do swear, that without partiality, favor, affection, prejudice, or hope of reward, you will well and truly try the cause now before you, between this State and the person* [or persons, if more than one is accused in the same complaint] *to be tried; and you do further swear, that you will not divulge the sentence of this court martial, until said sentence shall be promulgated in orders; and that you will not, on any account, at any time whatever, discover the vote or opinion of any member, unless required to give evidence thereof, as a witness, by a court of justice, in a due course of Law. So help you God.*

And the president shall administer to the judge advocate the following oath :

You, A. B. *do swear, that you will faithfully and impartially discharge your duties as judge-advocate on this occasion, as well to the State, as to the accused; and that you will not, on any account, at any time whatever, divulge the vote or opinion of any member of this court martial, or the sentence thereof, unless required to give evidence thereof, as a witness, by a court of justice, in due course of law. So help you God.*

And the judge advocate shall administer to the marshal and supernumeraries the following oath :

You, A. B. *do swear, that you will not divulge the sentence of this court martial, until said sentence is promulgated in orders; and that you will not, on any account, at any time whatever, discover the vote or opinion of any member, unless required to give ev-*

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idence thereof, as a witness, by a court of justice, in a due course of law. So help you God.

And the judge advocate shall administer to each supernumerary, who may take the place of any member of the Court, the oath required by this act to be taken by the members of the Court.

All persons shall be holden to appear and give evidence, before any court martial, when thereto summoned by the judge advocate, or a justice of the peace, under the same penalties for neglect, as are by law provided against witnesses, who neglect to appear when summoned to give evidence in criminal prosecutions. All witnesses shall be sworn or affirmed by the judge advocate before they give their evidence to the Court, and the form of the oath or affirmation to a witness shall be as follows:

You, A. B. *do swear* (or affirm, as the case may be) *that the evidence you shall give, in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. So help you God.*
[or, *this you do under the pains and penalties of perjury*, in case the witness shall affirm.]

When any member of a court martial is challenged, either on the part of the government, or the accused, the cause of challenge must be stated in writing, of which the Court, after due deliberation, shall determine the relevancy or validity, and decide accordingly. And no challenge to more than one member at a time shall be received by the Court.

On questions of challenge, the member objected to shall not vote, but the president may vote with the members, that the number of votes may remain the same. And in no case shall a challenge be acted upon, until the president, and judge advocate, and the intended members are sworn. All trials by courts martial shall be carried on in the day time, and when the votes are called for, on a question, the judge advocate shall begin with the youngest in commission, and proceed regularly to the oldest.

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And at all courts martial, unless two thirds of the members agree that the accused is guilty, the judge advocate shall record his acquittal; but if two thirds or more, pronounce the accused to be guilty, the Court shall sentence him either to be reprimanded in orders, or removed from office, in which sentence the president shall have a casting vote; and if any officer be sentenced to be removed from office, the Court shall adjudge him to be disqualified for, and incapable of, holding any military office under this State, either for life or term of years, according to the aggravation of his offence: which sentence, either of reprimand in orders, or removal from office, shall remain in full force. And all courts martial are hereby authorized to preserve order during their session; and if any person or persons, in presence of a court martial, shall behave in a disorderly manner, or make any tumult in, or disturb a court martial, and shall not upon command of the marshal thereof, desist therefrom, it shall be lawful for the court martial to confine such disorderly person or persons for a time not exceeding eight hours.

SECT. 38. *Be it further enacted*, That the Commander in Chief may call boards of officers, whenever in his opinion they may be necessary, for settling military questions, or for other purposes relative to good order and discipline. And the Commander in Chief, or the major-generals, or commanding officers of divisions, each within his own division, may order courts of inquiry, to examine into the nature of any transaction, or any accusation, or imputation against any officer, when made by an inferior: *Provided however*, That courts of inquiry on all officers above the rank of captain are to be ordered by the Commander in Chief; and courts of inquiry on captains and other officers under that rank are to be ordered by the Major-Generals or commanding officers of divisions. And courts of inquiry shall always consist of three officers.

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with the judge-advocate of the division in which they are holden, or some other suitable person, in case of his inability to attend, or any legal impediment to his acting, all of whom shall be sworn. These courts shall have the same power to summon witnesses as courts martial, and to examine them on oath; but they shall not give their opinions on the merits of the case, unless they are specially required so to do. The parties shall also be permitted to cross examine and interrogate the witnesses so as fairly to investigate the circumstances in question. The proceedings of a court of inquiry are to be authenticated by the signatures of the president and judge advocate, and are to be transmitted by the judge advocate, under seal, to the officer who appointed the court. The judge advocate shall administer to each of the officers composing a court of inquiry the following oath:

You, A. B. *do swear that you will well and truly examine and inquire into the matter now before you, without partiality, favor, affection, prejudice, or hope of reward. So help you God.*

After which the president shall administer to the judge-advocate the following oath:

You, A. B. *do swear, that you will impartially record the proceedings of the court, and the evidence to be given in the case in hearing. So help you God.*

The judge-advocate shall administer to the witnesses the same oath or affirmation, as the case may be, as is prescribed in the thirty-seventh section of this act, to be administered to witnesses before a court martial. And as courts of inquiry, when not properly regulated, may be perverted to improper purposes, all other courts of inquiry than those above provided for are prohibited.

SECT. 39. *Be it further enacted*, That it shall be the duty of the judge-advocates to attend all general and division courts martial, and all courts of inquiry, within the divisions in which they are respectively

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commissioned, when thereto ordered: *Provided nevertheless*, That it shall be in the power of the Commander in Chief, or the Major-Generals, or commanding officers of divisions, or the president of a court while in session, during the absence of the judge-advocate, to appoint a judge-advocate, *pro tempore*, to any particular court martial, or to any particular court of inquiry, appointed to be holden, in case of inability of the division judge-advocate, or in case of any legal impediment to his acting. And it shall further be the duty of each judge-advocate, or person officiating as such, at any court martial, impartially to state the evidence both for and against the officer or officers under trial, all which evidence shall be taken as in civil actions. And on the decision of the court, it shall be his duty forthwith, to put under seal and so transmit the judgment or sentence of said court, together with the decision on each specification of charges, to the officers ordering the same, whose duty it shall be to promulgate, without delay, said sentence in orders regularly transmitted. And the original records of the proceedings and judgment of all general and division courts martial, shall, as soon as opportunity of time and distance will admit, after such courts martial are dissolved, be deposited in the office of the Adjutant General, where they shall be carefully kept and preserved. And it shall further be the duty of the judge-advocate to make up and certify the pay rolls of all such courts martial and courts of inquiry, together with accounts of incidental expenses, and cause the same to be presented to the Legislature for allowance. And when such pay-rolls and accounts are allowed and paid to the judge advocate, he shall on demand, pay the amount due to each officer who performed the service, and to each other person, the sum allowed by the Legislature, and shall within a reasonable time transmit such pay rolls and accounts receipted in full to the

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office of the Adjutant General. The militia officers, excepting judge advocates, while serving on courts martial, courts of inquiry, and military boards, including supernumeraries and marshals, shall be entitled to pay for each day as follows, viz: Major-Generals five dollars, Brigadier-Generals four dollars and fifty cents, Colonels four dollars, Lieutenant Colonels three dollars and seventy-five cents, Majors three dollars and fifty cents, Captains three dollars, Subalterns two dollars and fifty cents each.

SECT. 40. *Be it further enacted*, That each officer aforesaid shall be entitled to pay and allowance for rations to and from the place of the courts, or boards sitting, at the rate of thirty miles per day, and allowance for forage for one horse when the same shall be necessary.

SECT. 41. *Be it further enacted*, That judge advocates, while employed on courts martial, or courts of inquiry, or military boards, shall be entitled to five dollars per day; which shall include their compensation for the time necessarily employed in preparing papers, made requisite previous to, and after any trial, inquiry, or investigation; and for making out the pay rolls, receiving the monies and paying over the same to the respective officers composing such courts; and pay, to and from the place of the courts or boards sitting, at the rate of thirty miles per day; and for forage for one horse if necessary.

SECT. 42. *Be it further enacted*, That the fees for subpœnas for witnesses on the part of the State, and for making service shall be the same as are allowed in civil causes, and the witness shall be allowed for travel four cents for each mile, to and from the place of the courts or boards sitting and one dollar for each day's attendance.

SECT. 43. *Be it further enacted*, That no allowance for pay or rations shall hereafter be made for any military guard attending a court martial, unless

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the officer appointing the court shall order such guard.

SECT. 44. *Be it further enacted*, That no officer, appointing a court martial, court of inquiry or board of officers, shall order out a guard, unless in his judgment such guard be necessary to protect the same. But a non-commissioned officer or private may be ordered to attend such courts or boards of officers and shall be allowed at the rate of one dollar per day.

RULES AND ARTICLES,

Governing the MILITIA *when not in actual service.*

SECT. 45. *Be it further enacted*, That the following shall be the Rules and Articles, by which the Militia of this State shall be governed when not in actual service.

Article 1. Every commissioned officer who shall be guilty of any unmilitary conduct, neglect of duty, or disobedience of orders, or who shall, when on duty, appear or behave himself in an unofficer-like manner, or who shall wilfully oppress or injure any under his command, or who shall at any time set on foot, or join in any combination to resist or evade the lawful orders of any commissioned officer, shall be liable to be tried by a court martial.

Article 2. If any officer shall, in due course of law, be convicted of any infamous crime, he shall be forthwith put in arrest, and deprived of all military command, until an opportunity shall be had for both houses of the Legislature to address the governor for his removal.

Article 3. Every officer, to be tried by a court martial, shall be put in arrest, so as to be suspended from the exercise of his office, and shall have a copy of the charges exhibited against him, and notice of the time and place appointed for his trial; which copy and notice shall be given thirty days at least before his trial is commenced.

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Article 4. In case any officer, for the trial of whom a court martial is appointed, shall neglect to appear and make defence, or, if appearing, shall afterwards withdraw in contempt of the court, or being arraigned before a court martial, shall, from obstinacy or deliberate design, stand mute, or answer foreign to the purpose, the court may proceed to trial and judgment as if he had regularly pleaded not guilty.

Article 5. If any officer, after having been put in arrest, shall presume to exercise any military command, until he is discharged from his arrest, he shall be liable to be tried by a court martial, and if convicted, he shall be removed from office.

Article 6. No officer shall be tried by a court martial for any offence which shall have been committed more than one year, previous to the time when a complaint shall have been made in writing therefor, unless he shall have repeated such offence in two or more successive years, or by reason of having absented himself, or some other manifest impediment, shall not have been amenable to justice within that period.

Article 7. Every captain or commanding officer who shall either neglect or refuse to call out his company as often as, and at the times required by this act, or at any other time, when thereto required by his superior officer, or who shall at any time excuse any under his command for unnecessary absence or deficiency, shall be liable to be tried by court martial.

Article 8. No officer shall be permitted to resign while under arrest: And no resignation of any officer shall be approved, if such resignation be offered between the first day of May and the first day of November, unless the reasons offered by the officer wishing to resign within those days be very urgent.

Article 9. No officer shall be discharged, except by the Commander in Chief, on request of such

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officer, in writing, or by actual removal of residence, out of the bounds of his command, and to such distance that his Major-General shall think it inconvenient for him to discharge the duties of his office, or by twelve months' absence, without leave of the commanding officer of his division, or by the corps to which he belongs being disbanded by law. And whenever any division, brigade, regiment or battalion shall be divided, and the residence of any staff officer attached thereto, shall be without the bounds of the corps in which he was commissioned, such staff officer shall be entitled to an honorable discharge, and shall cease to do duty after such division is made, and the commanding officer of such corps may proceed to fill the vacancy occasioned thereby.

Article 10. No officer shall consider himself as exempted from the duties of his station, except when under arrest, until he shall have been discharged by one of the methods or causes pointed out in the preceding article, or shall have received a certificate of his discharge from the Commander in Chief.

Article 11. No general or field officer shall approve a resignation, until the orderly and other books and property of the State, in the possession of the resigning officer, are taken care of, for the use of the corps to which such officer belongs, in order that such books and property may be delivered to his successor.

Article 12. The captain or commanding officer of every company raised at large, shall annually, in the month of April, make out a list of the names of the men belonging to his company, and deliver the same to the commanding officer of the regiment or regiments, within whose bounds such men reside.

Article 13. Every captain or commanding officer of a company shall make a return of the state of his company, comprehending the names of all the men belonging thereto, with all the arms and equipments of the men present at the company inspection,

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to the commanding officer of his regiment or battalion, in the month of May, annually. Every commanding officer of a regiment shall cause his adjutant to make a return of the state of his regiment to the commanding officer of the brigade, in the month of June, annually. And every commanding officer of a brigade shall cause his brigade inspector to make out a return of his brigade, of which he shall transmit to the Major-General of the division to which he belongs, in the month of July, annually. And the Major-General shall cause the division inspector to transmit a certified copy of such brigade returns to the office of the Adjutant-General during the months of August and September, annually.

Article 14. Every person who shall lawfully enlist in any volunteer company, (whether such person be exempted by this act from any military duty or not) shall be holden to do duty therein for the term of seven years, unless such person be sooner discharged by the order of the commanding officer of the brigade.

Article 15. Each Brigadier-General or commanding officer of brigade, within his own brigade, upon application of the commanding officer of any company of artillery, cavalry, light-infantry, grenadiers, or riflemen, may discharge any non-commissioned officer or private from any of the aforesaid companies; and such non-commissioned officer or private shall forthwith be enrolled in the standing company, within the bounds of which he resides; and every non-commissioned officer so discharged, shall be considered as reduced to the ranks.

Article 16. Whenever different corps shall parade, join, or do duty together, the senior officer present, according to rank, shall command, without regard to corps.

Article 17. Any officer neglecting or refusing to make a draft or detachment, when ordered in pursuance of the thirtieth section of this act, shall be

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arrested, and be liable to be tried by a court martial, and the officer next in command, shall be ordered to make the draft or detachment.

Article 18. It shall be the duty of each commanding officer of a company, drawing cartridges in pursuance of the twenty-ninth section of this act, to cause them to be distributed equally among his men on the parade, and to be used in teaching his men precision in their firings. And if any non-commissioned officer or private shall come on to any parade with his musket, rifle, or pistol, loaded with ball, slugs, or shot, he shall for such offence forfeit not less than *five* nor more than *twenty* dollars.

Article 19. If any officer, contrary to the provision of the thirty-second section of this act, shall parade his men on either of the days of election in said section pointed out, he shall be liable to be tried by court martial; and moreover shall forfeit a sum not less than *fifty* nor more than *three hundred dollars*, to be sued for and recovered in any action on the case, before any court of competent jurisdiction, one moiety thereof to the use of the person who may prosecute for the same, the other to the use of the State.

Article 20. At all regimental and battalion parades, the several companies shall form in regiment or battalion, according to the rank of the officers present, actually commanding them; and the same rule shall apply in all cases, excepting those in which artillery, cavalry, light infantry, grenadiers, and riflemen, may by usage and necessity, be detached from the regiments and battalions.

Article 21. Any non-commissioned officer or private, who shall, while under arms, or when on duty, behave himself with contempt to an officer, or shall conduct in a disorderly manner, or excite or join in any tumult or riot, or be guilty of any other unmilitary conduct, may be put under guard, and so kept for a longer or shorter time, at the discretion

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of the commanding officer of the company; not exceeding however, the time which the company to which he belongs is dismissed; and shall moreover forfeit a sum not less than *five*, nor more than *twenty dollars* for each offence, according to the degree and aggravation of the same.

Article 22. Any non-commissioned officer or private, who shall, without leave of his officer, quit his guard, section, platoon, or company, shall for each offence forfeit not less than *two* nor more than *ten dollars*.

Article 23. Any non-commissioned officer or private, who shall, in going to, or returning from, or while on the place of parade, or while under arms, unnecessarily, and without orders, discharge his musket, rifle, or pistol, shall forfeit not less than *five*, nor more than *twenty dollars* for each offence.

Article 24. Any non-commissioned officer or private, who shall refuse or neglect to give any notice or warning, when ordered thereto by the commanding officer of the company to which he belongs, shall for such offence forfeit not less than *one*, nor more than *four dollars*, for each non-commissioned officer or private, which he shall neglect or refuse to warn or notify, to be recovered on indictment in the Circuit Court of Common Pleas, or on complaint before some Justice of the Peace; one half thereof to the complainant, and the other half thereof to the State.

Article 25. If any non-commissioned officer or private, shall, in due course of law, be convicted of any infamous crime, he shall be forthwith disenrolled from the militia.

Article 26. Every non-commissioned officer, who shall be guilty of any disobedience of orders, neglect of duty, or other unmilitary conduct, may be reduced to the ranks by the commanding officer of the regiment to which he belongs, by and with the advice of the commanding officer of the company to which such non-commissioned officer belongs.

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Article 27. Every non-commissioned officer or private, (excepting those, who by the third section of this act are permitted to send their arms and equipments on that day for inspection*) who being duly ordered to appear at the company inspection and view of arms on the first Tuesday of May, and shall unnecessarily neglect to appear at the time and place appointed, shall forfeit *two dollars and fifty cents.*

Article 28. Every non-commissioned officer or private, who, being duly ordered, shall unnecessarily neglect to appear at any company training, at the time and place appointed, shall forfeit *one dollar and fifty cents.*

Article 29. Every non-commissioned officer or private, who being duly ordered, shall unnecessarily neglect to appear, for any battalion, regimental, or brigade inspection or review, at the time and place appointed, shall forfeit *three dollars.* And in no case in time of peace shall any substitute be received.

Article 30. Every non-commissioned officer or private, who shall appear at the company inspection, on the first Tuesday in May, or at any company training, or for any battalion, regimental, or brigade inspection or review, and shall not be armed and equipped as the law directs, shall for each article, in which he is deficient, or which shall be of bad quality, or in bad condition, forfeit as follows: If deficient of a good musket, bright and in good order, of a bore sufficient for balls of the eighteenth part of a pound, a sufficient bayonet and belt, and an iron or steel ramrod; all which articles are to be considered as one, and a deficiency in either shall be considered a deficiency of the whole, he shall forfeit *one dollar;* if deficient of a cartridge box, containing twenty-four cartridges suited to the bore of his musket, and each cartridge containing a proper quantity of good powder and ball, or if deficient of a serviceable knapsack, he shall forfeit *thirty cents;*

*See additional act passed 25th February, 1824.

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if deficient of two spare flints and priming wire and brush, or either of them, he shall forfeit *twenty cents; Provided nevertheless*, that none of the above forfeitures shall be incurred by any private, in case he appears with a good rifle, knapsack, shot pouch, powder horn, a quarter of a pound of powder, and twenty balls suited to the bore of his rifle: *Provided moreover*, that cartridges, with ball, shall not be brought into the field, except at the company inspection on the first Tuesday in May, and knapsacks may be dispensed with at company trainings.

Article 31. If any non-commissioned officer or private of any company of artillery, cavalry, light infantry, grenadiers, or riflemen, shall appear on any of the occasions mentioned in the preceding article, without the uniform of the company to which he belongs, he shall forfeit *one dollar and fifty cents.*

Article 32. All excuses for non-appearance of non-commissioned officers and privates, must be made within eight days of any training, view of arms, or other military duty, to the commanding officers of their respective companies; and on the delinquent's producing, or causing to be produced, satisfactory evidence of his inability to appear, his commanding officer may excuse him; but all commanding officers of companies are hereby forbidden from receiving any excuse, for non-appearance, under any pretence whatever, after the expiration of the eight days allowed. And any such non-commissioned officer or private, who shall neglect to give or cause to be given, to his commanding officer, such satisfactory evidence of his inability to appear, (*Provided* he is not prevented therefrom by severe sickness) within the said eight days, shall forfeit and pay the penalty by law provided for such non-appearance. And all commanding officers of companies are prohibited from receiving any excuses from their men, for any deficiency or deficiencies of equipments; and commanding officers of

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companies shall inform, or cause their clerks to be informed, of all the excuses for non-appearances, which they may allow as good and sufficient.

Article 33. Any non-commissioned officer or private, being a legal voter of a company, who, after being duly notified, shall unnecessarily neglect to appear at any meeting for the choice of any officer or officers of the company to which he belongs, he shall for every such neglect, forfeit *one dollar.*

Article 34. All surgeons and surgeons' mates are prohibited from taking any fee or gratuity whatever, under any pretence whatsoever, from any man to whom they may give a certificate of inability to perform military duty on account of bodily infirmity. And it shall be their duty critically to examine the case of any applicant for such certificate, and not to grant a certificate unless the infirmity or disability be such, beyond all doubt, as to render him unable to perform military duty. And if any surgeon or surgeon's mate, shall in violation of this article, take any fee or gratuity, or if any surgeon or physician not commissioned as surgeon or surgeon's mate, shall without good and sufficient cause, grant such certificate in violation of this article, he shall, for every such offence, forfeit and pay not less than twenty, nor more than one hundred dollars. to be recovered by indictment in the Circuit Court of Common Pleas; one half thereof to the complainant and the other half to the State.

Article 35. The aid-de-camp to each Major-General, by him appointed orderly officer; the aid-de-camp of each brigade, and the adjutant of each regiment, battalion, or corps, shall constantly keep a correct roster of the division, brigade, regiment, battalion, or corps, to which they respectively belong; and an orderly book, and record therein all orders and other official communications, received or issued by their respective commanding officers,

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and copy, distribute, and transmit, all such orders and other papers, as they may be directed by said officers, and attend them while on the performance of military duty.

Article 36. Every sergeant-major, quarter-master sergeant, drum major or fife major, who shall be guilty of deglect or disobedience of the orders of the commanding officer of their respective regiments or battalions, shall, for each offence, forfeit not less than five dollars, nor more than twenty dollars, to be recovered by the adjutants of their respective regiments or battalions, on complaint, in the same manner, that fines are recovered by clerks of companies; one half thereof to said adjutant, for his own use, and the other half to be expended by him, under the direction of the field officers, in the repair of the regimental and battalion colors, and of the musical instruments furnished by the State for the use of the companies of his said regiment or battalion, and the purchase of camp colors. And every such non-commissioned officer, who shall be guilty of any disobedience of orders, neglect of duty, or other unmilitary conduct, may be reduced to the ranks by their Brigadier General, by and with the advice of the commanding officer of the regiment or battalion to which such non-commissioned officer may belong.

Article 37. These rules and articles shall be read at the head of each company on the first Tuesday of May, annually.

Sect. 46. *Be it further enacted*, That all fines and forfeitures incurred by non-commissioned officers and privates, under the provisions of this act, the recovery of which, and the mode of the recovery of which, are not in and by this act otherwise provided for, shall be prosecuted for and recovered by the respective clerks of the companies to which such non-commissioned officer or officers, private or privates, incurring any fine or forfeiture, as afore-

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said, belong, in an action of debt, before any Court proper to try the same. And such action shall not be commenced till after eight days, and shall be commenced within thirty days, after the day of any parade of any company to which such clerk belongs. And it shall be lawful for any clerk in such action, to amend his writ in any stage of the process before the rendition of final judgment therein, without paying costs. And no clerk shall be liable to pay any defendant costs, in any case in which the commanding officer of the company has endorsed his approval on the writ of such clerk. And no appeal shall be allowed from any judgment of a justice of the peace, when the forfeiture by him adjudged does not exceed ten dollars, exclusive of costs.

SECT. 47. *Be it further enacted*, That the clerk of each company shall retain to his own use, one fourth part of all fines and forfeitures collected or recovered by him, and the residue he shall faithfully pay over to the commanding officer of the company, on demand; and the commanding officer of the company shall give his receipt to the clerk for all money paid over to him as aforesaid. And it shall be the duty of every commanding officer of a company to expend such part of the money paid him by the clerk as may be necessary for defraying such company expenses, as a majority of the commissioned officers of the company shall judge to be necessary.

SECT. 48. *Be it further enacted*, That the adjutant-general and the quarter-master general, shall receive compensation for their services, to be allowed by the legislature.

SECT. 49. *Be it further enacted*, That the following shall be the annual allowance to the officers hereinafter named, as a full compensation for all the services they may render in the official discharge of their duties respectively:

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To the Aid-de-Camp acting as orderly officer to the Major General of each Division, fifty dollars; to the Brigade Inspector of each Brigade, twenty dollars; to the Brigade Quarter Master of each Brigade, ten dollars; to the Aid-de-Camp of each Brigadier General, twenty dollars; to the Adjutant of each Regiment, twenty-five dollars; to the Adjutant of each Battalion of Cavalry or Artillery, fifteen dollars; to the Quarter Master of each Regiment, ten dollars: *Provided*, the said officers shall promptly and faithfully perform the duties belonging to them, respectively.

Sect. 50. *Be it further enacted*, That it shall be incumbent on all officers and non-commissioned officers, whose duties are not herein fully defined, to do and perform all such duties as by law and military principles and usage are attached to their offices, respectively: *Provided*, such duties shall be required of them by their senior and proper commanding officer.

Sect. 51. *Be it further enacted*, That the Adjutant General is hereby authorized to issue blank forms, to be uniform throughout the State, for the use of the officers of the militia, and for the auditing of military accounts of every description.

Sect. 52.* *Be it further enacted*, That the Adjutant General is hereby authorized to provide, and cause to be distributed, five hundred copies bound, of the United States' System of Infantry Exercise and Manœuvres.

Sect. 53. *Be it further enacted*, Every new division shall be designated by the number, next higher than that of the division established next before it, and the divisions shall take rank according to the numbers by which they are severally designated, the first being highest in rank.

* This repealed by the additional Act passed 11th Feb. 1823.

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RULES AND ARTICLES

For governing the Troops stationed in Forts and Garrisons, within this State; and also the Militia or any part thereof, when called into actual service.

SECT. 54. *Be it further enacted*, That the following rules and articles, be, and they hereby are, established, and declared to be in force, for governing all troops stationed in forts and garrisons within this State; and also the militia, or any part thereof, when called into actual service, *viz.*

ARTICLE *first.* All officers and soldiers shall diligently attend divine service: All officers and soldiers who shall unnecessarily absent themselves from, or behave indecently or irreverently at any place of divine worship, shall, if commissioned officers, be brought before a general Court Martial, there to be publicly and severely reprimanded by the President; if non-commissioned officers or soldiers, every person so offending, shall, for the first offence, forfeit twenty cents, to be deducted out of his next pay; for the second offence he shall not only forfeit a like sum, but be confined twenty-four hours; and for every like offence, shall suffer and pay in like manner; which money, so forfeited, shall be applied to the use of the sick soldiers of the troop or company to which the offender belongs.

ART. *second.* Whatsoever non-commissioned officer or soldier shall use any profane oath or execration, shall incur the penalties expressed in the foregoing article; and if a commissioned officer be thus guilty of profane cursing or swearing, he shall forfeit and pay, for each and every such offence, sixty seven cents.

ART. *third.* Whatsoever officer or soldier shall presume to use traitorous or disrespectful words, against the authority of the United States, in Congress assembled, or the Legislature of this State; if a commissioned officer, he shall be cashiered; if a

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non-commissioned officer or soldier, he shall suffer such punishment as shall be inflicted upon him by the sentence of a Court Martial.

ART. *fourth.* Any officer or soldier who shall behave himself with contempt or disrespect towards the Commander in Chief, or any general or commanding officer of the troops or militia of this State, or shall speak words tending to his hurt or dishonor, shall be punished according to the nature of his offence, by the judgment of a Court Martial.

ART. *fifth.* Any officer or soldier who shall begin, excite, cause or join in any mutiny or sedition, in the troop, company or regiment to which he belongs, or in any other troop or company in the service of this State, or in any party, post, detachment or guard, on any pretence whatsoever, shall suffer such punishment as by a Court Martial shall be inflicted.

ART. *sixth.* Any officer, non-commissioned officer or soldier, who, being present at any mutiny or sedition, doth not use his utmost endeavors to suppress the same; or coming to the knowledge of any intended mutiny, doth not without delay give information thereof to his commanding officer, shall be punished by sentence of a Court Martial, according to the nature of his offence.

ART. *seventh.* Any officer or soldier who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his offence, on any pretence whatsoever, or shall disobey any lawful command of his superior officer, shall suffer such punishment as shall, according to the nature of his offence, be inflicted upon him by the sentence of a Court Martial.

ART. *eighth.* Any non-commissioned officer or soldier, who shall desert, or, without leave from his commanding officer, absent himself from the troop or company to which he belongs, or from any detachment of the same, shall, upon conviction thereof, suffer death, or such other punishment as shall be inflicted by the sentence of a general Court Martial.

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ART. *ninth.* Whatever officer or soldier shall be convicted of having advised or persuaded any other officer or soldier to desert, shall suffer such punishment as shall be inflicted by the sentence of a Court Martial.

ART. *tenth.* No officer or soldier shall use any reproachful or provoking speeches or gestures to another; nor shall any officer or soldier presume to send a challenge to any person to fight a duel, upon pain, if a commissioned officer, of being cashiered; if a non-commissioned officer or soldier, of suffering corporal punishment, at the discretion of a Court Martial.

ART. *eleventh.* If any commissioned, or non-commissioned officer commanding a guard, shall knowingly and willingly suffer any person whatsoever to go forth to fight a duel, he shall be punished as a challenger; and likewise all seconds, promoters and carriers of challenges, in order to duels, shall be deemed as principals, and be punished accordingly.

ART. *twelfth.* All officers of what condition soever shall have power to part and quell all quarrels, frays and disorders, though the persons concerned should belong to another regiment, troop or company; and either to order officers into arrest, or non-commissioned officers or soldiers to prison, until their proper superior officers shall be acquainted therewith; and whosoever shall refuse to obey such officer, (though of an inferior rank) or shall draw his sword upon him, shall be punished at the discretion of a general Court Martial.

ART. *thirteenth.* Whatsoever officer or soldier shall upbraid another for refusing a challenge, shall be considered as a challenger, and punished accordingly.

ART. *fourteenth.* Every officer commanding in quarters, garrisons, or on a march, shall keep good order, and to the utmost of his power redress all such abuses or disorders as may be committed by

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any officer or soldier under his command; and if, upon complaint made to him of officers or soldiers beating or otherwise ill treating any person, or of committing any kind of riots to the disquieting the good citizens of this or either of the United States, he shall refuse or omit to see justice done on the offender or offenders, and reparation made to the party or parties injured, so far as the offenders' pay shall enable him or them, he shall, upon proof thereof, be punished by a general Court Martial, as if he himself had committed the crimes or disorders complained of.

ART. *fifteenth.* If any officer shall think himself to be wronged by his Colonel, or the commanding officer of his regiment, and shall, upon due application made to him, be refused to be redressed, he may complain to the General or Commander in Chief of the forces in service, in order to obtain justice, who shall examine into the complaint and see that justice be done.

ART. *sixteenth.* If any inferior officer or soldier shall think himself wronged by his captain, or other officer commanding the troop or company to which he belongs, he may complain thereof to the commanding officer of the regiment, who shall summon a regimental Court Martial, for the doing justice to the complainant; from which regimental Court-Martial either party, if he think himself still aggrieved, may appeal to a general Court Martial. But if, upon a second hearing, the appeal shall appear to be vexatious and groundless, the person so appealing shall be punished at the discretion of the said general Court Martial.

ART. *seventeenth.* Whatsoever non-commissioned officer or soldier shall be convicted at a Court-Martial of having sold, or designedly, or through neglect, wasted the ammunition delivered out to him to be employed in the service of this State, shall, if a non-commissioned officer, be reduced to a pri-

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vate, and if a soldier, shall suffer such punishment as shall be inflicted upon him by a Court Martial.

ART. *eighteenth.* All non-commissioned officers and soldiers who shall be found one mile from the camp without leave, in writing, from their commanding officer, shall suffer such punishment as shall be inflicted on them by the sentence of a Court-Martial.

ART. *nineteenth.* No officer or soldier shall be out of his quarters or camp, without leave from his commanding officer, upon penalty of being punished according to the nature of his offence, by the sentence of a Court Martial.

ART. *twentieth.* Every non-commissioned officer and soldier shall retire to his quarters or tent, at the beating of the tattoo, in default of which he shall be punished according to the nature of his offence, by the sentence of a Court Martial.

ART. *twenty-first.* No officer, non-commissioned officer or soldier shall fail to repair, at the time fixed, to the place of parade or exercise, or other rendezvous, appointed by his commanding officer, if not prevented by sickness or some other evident necessity; nor shall go from the said place of rendezvous or from the guard, without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence, by the sentence of a Court Martial.

ART. *twenty-second.* Whatsoever commissioned officer shall be found drunk on his guard, party or other duty, under arms, shall be cashiered for it; and any non-commissioned officer or soldier, so offending, shall suffer such punishment as shall be inflicted by the sentence of a Court Martial.

ART. *twenty-third.* Whatsoever sentinel shall be found sleeping upon his post, or shall leave it before he shall be regularly relieved, shall suffer such punishment as shall be inflicted by the sentence of a general Court Martial.

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ART. *twenty-fourth.* Any person belonging to the forces employed in the service of this State, who, by discharging of fire-arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison or quarters, shall suffer such punishment as shall be ordered by the sentence of a general Court Martial.

ART. *twenty-fifth.* Any officer or soldier, who shall, without urgent necessity or without the leave of his superior officer, quit his platoon or division, shall be punished according to the nature of his offence, by the sentence of a Court Martial.

ART. *twenty-sixth.* No officer or soldier shall do violence or offer any insult or abuse to any person who shall bring provisions or other necessaries to the camp, garrison, or quarters, of the forces of this State, on pain of suffering such punishment as a Court Martial shall direct.

ART. *twenty-seventh.* Whatsoever officer or soldier shall abandon any post committed to his charge, or shall speak words inducing others to do the like, in time of an engagement, shall suffer death, or such other punishment as shall be inflicted by the sentence of a general Court Martial.

ART. *twenty-eighth.* Any person belonging to the forces in the service of this State who shall make known the watch word to any person not entitled to receive it according to the rules and discipline of war, or shall presume to give the parole or watch-word different from what he received, shall suffer death, or such other punishment as shall be ordered by the sentence of a general Court Martial.

ART. *twenty-ninth.* Whosoever belonging to the forces in the service of this State shall relieve the enemy with money, victuals or ammunition; or shall knowingly harbor and protect an enemy, shall suffer such punishment as by the sentence of a Court Martial shall be inflicted.

ART. *thirtieth.* Whosoever belonging to the maine forces shall be convicted of holding correspondence

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with, or giving intelligence to the enemy, either directly or indirectly, shall suffer such punishment as by the sentence of a Court Martial shall be inflicted.

ART. *thirty-first* All public stores taken from the enemy by the forces in the service of this State, shall be secured for the use of the State.

ART. *thirty-second.* If any officer or soldier shall leave his post or colors to go in search of plunder, he shall, upon conviction thereof, before a general Court Martial, suffer such punishment as by the sentence of the said Court Martial shall be inflicted.

ART. *thirty-third.* If any commander of any garrison, fortress, or post shall be compelled, by the officers or soldiers under his command, to give up to the enemy or to abandon it, the commissioned officers, non-commissioned officers, or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment as shall be inflicted upon them by the sentence of a Court Martial.

ART. *thirty-fourth.* All sutlers and retailers to the camp, and all persons serving with the troops of the State in the field, shall be subject to orders according to the rules and discipline of war.

ART. *thirty-fifth.* If, upon marches, guards or in quarters, different corps shall happen to join or do duty together, the eldest officer by commission there on duty, or in quarters, shall command the whole, and give out orders for what is needful for the service, regard being always had to the several ranks of those corps, and the posts they usually occupy.

ART. *thirty-sixth.* If any regiments, troops or detachments of horse or foot shall happen to march with, or be encamped or quartered with, any bodies or detachments of other troops, the eldest officer, without respect to corps, shall take upon him the command of the whole, and give the necessary orders to the service.

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ART. *thirty-seventh.* A general Court-Martial shall not consist of less than thirteen commissioned officers, and the President of such Court-Martial shall not be the Commander in Chief, nor commanding officer of the troops in service or garrison, where the offender shall be tried, nor under the degree of a Field Officer.

ART. *thirty-eighth.* The members of Courts-Martial, shall, when belonging to different corps, take rank as is herein before directed when on other duty.

ART. *thirty-ninth.* Some person shall be appointed by the commanding officer, who shall order the Court-Martial to prosecute in the name of the State of Maine; and in trials of offenders, such person shall administer to each member the following oath:

YOU swear, that you will well and truly try and determine, according to your evidence, the matter now before you, between the State of Maine and the prisoner to be tried; that you will duly administer justice according to the rules and articles for governing the troops of the said State, without partiality, favor or affection; and if any doubt shall arise which is not explained by the said articles, according to your conscience, the best of your understanding, and the custom of war in like cases; that you will not divulge the sentence of the Court until it shall be approved of by the commanding officer; and that you will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the Court-Martial, unless required to give evidence as a witness by a court of justice, in a due course of law. *So help you God.*

Which oath being administered to the members of the Court, the President shall administer the following oath to the person prosecuting as aforesaid.

YOU *A. B.* do swear, that you will not, upon any account, at any time whatsoever, disclose or

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discover the vote or opinion of any particular member of the Court-Martial, unless required to give evidence thereof as a witness, by a court of justice, in a due course of law. *So help you God.*

ART. *fortieth.* All the members of a Court-Martial are to behave with calmness and decency; and in the giving their votes, are to begin with the youngest in commission.

ART. *forty-first.* All persons who give evidence before a Court-Martial, shall be examined upon oath, which oath shall be administered by the President of the Court-Martial, in the form following:

YOU swear, the evidence you shall give in the cause now in hearing, shall be the truth, the whole truth, and nothing but the truth. *So help you God.*

ART. *forty-second.* No sentence of death shall be given against any offender by any general Court Martial, unless two thirds of the members shall concur therein.

ART. *forty-third.* All persons called to give evidence in any cause before a Court-Martial who shall refuse to give evidence, shall be punished for such refusal at the discretion of such Court-Martial.

ART. *forty-fourth.* No field officer shall be tried by any person under the degree of a Captain; nor shall any proceedings or trials be carried on excepting between the hours of sun-rise and sun-set.

ART *forty-fifth.* No sentence of a Court-Martial shall be put in execution, until after report shall be made to the commanding officer where the Court-Martial shall be held, and his orders to be issued for carrying such sentence into execution.

ART. *forty-sixth.* The commissioned officers in any regiment, may, by the appointment of their Colonel or commanding officer, hold regimental Courts Martial for the enquiring into such disputes or criminal matters as may come before them, and for inflicting corporal punishment for small offences.

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and shall give judgment by the majority of voices; but no sentence shall be executed till the commanding officer (not being a member of the Court-Martial) shall have confirmed the same.

ART. *forty-seventh.* No regimental Court-Martial shall consist of less than five officers, excepting in cases where that number cannot be conveniently assembled, when three may be sufficient; who shall likewise determine upon the sentence by the majority of voices.

ART. *forty-eighth.* Any officer commanding in a fort, castle, barrack or elsewhere, where the corps under his command consists of detachments from different regiments, or of any independent company or companies, may assemble Courts Martial for the trial of offenders, in the same manner as if they were regimental, whose sentence shall not be executed until it shall be confirmed by the said commanding officer.

ART. *forty-ninth.* No person whatsoever shall use menacing words, signs or gestures in the presence of a Court-Martial then sitting, or shall cause any disorder or riot so as to disturb their proceedings, on the penalty of being punished at the discretion of the said Court-Martial.

ART. *fiftieth.* To the end that offenders may be brought to justice, whenever any officer or soldier shall commit a crime deserving punishment, he shall, by his commanding officer, if an officer, be put in arrest; if a non-commissioned officer or soldier, be imprisoned until he shall be either tried by a Court-Martial, or shall be lawfully discharged by proper authority.

ART. *fifty-first.* No officer or soldier who shall be put in arrest or imprisonment, shall continue in his confinement more than eight days, or until such time as a Court Martial can be conveniently assembled.

ART. *fifty-second.* No officer commanding a

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guard or provost-martial, shall refuse to receive or keep any prisoner committed to his charge by any officer belonging to the forces of this State; which officer, shall, at the time of commitment, deliver an account, in writing, signed by himself, of the crime with which the prisoner is charged.

ART. *fifty-third.* No officer commanding a guard or provost-martial, shall presume to release any prisoner committed to his charge without proper authority for so doing, nor shall he suffer any prisoner to escape, on the penalty of being punished for it by the sentence of a Court-Martial.

ART. *fifty-fourth.* Every officer or provost-martial to whose charge prisoners shall be committed, is hereby required, within twenty-four hours after such commitment, or as soon as he shall be released from his guard, to give, in writing, to the Colonel of the regiment to which the prisoner belongs, (where the prisoner is confined upon the guard belonging to the said regiment and his offence only relates to the neglect of duty in his own corps) or to the commander in chief, their names, their crimes, and the names of the officers who committed them, on the penalty of his being punished for his disobedience or neglect, at the discretion of a Court-Martial.

ART. *fifty-fifth.* If any officer under arrest, shall leave his confinement before he shall be set at liberty by the officer who confined him, or by a superior power, he shall be cashiered for such his offence.

ART. *fifty-sixth.* Whatsoever commissioned officer shall be convicted before a general court-martial of behaving in a scandalous, infamous manner, such as is unbecoming the character of an officer and a gentleman, shall be discharged from the service.

ART. *fifty-seventh.* All officers, conductors, gunners, matrosses, drivers, or any other person whatsoever, receiving pay or hire in the service of the state artillery, shall be governed by the aforesaid

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rules and articles; and shall be subject to be tried by courts martial in like manner with other officers and soldiers.

ART. *fifty-eighth.* For differences arising amongst themselves, or in matters relating to their own corps, the courts martial may be composed of their own officers; but where a sufficient number cannot be assembled, or in matters wherein their corps are interested, the officers of artillery shall sit in courts martial with the officers of other corps.

ART. *fifty-ninth.* No person shall be sentenced to suffer death, except in the cases expressly mentioned in the foregoing articles.

ART. *sixtieth.* The field officers of each and every regiment shall appoint some suitable person belonging to such regiment to receive such fines as may arise within the same for any breach of any of the foregoing articles; and shall direct the same to be properly applied to the relief of such sick, or necessitous soldiers as belong to such regiment; and such person shall account with such officer for all fines received and the application thereof.

ART. *sixty-first.* All crimes not capital, and all disorders and neglects, which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles, are to be taken cognizance of by a general or regimental Court-Martial, according to the nature and degree of the offence, and be punished at their discretion.

ART. *sixty-second.* Whenever any officer or soldier shall be accused of a capital crime, or having used violence, or committed any offence against the person or property of the good people of this or either of the United States, such as is punishable by the known laws of the land, the commanding officer and officers of every regiment, troop or party, to which the person or persons so accused shall belong, are hereby required, upon application duly made by

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or in behalf of the party or parties injured, to use his utmost endeavors to deliver over such accused person or persons to the Civil Magistrate, and likewise to be aiding and assisting the officers of justice in apprehending and securing the person or persons so accused, in order to bring them to trial. And if any commanding officer or officers shall wilfully neglect, or shall refuse, upon the application aforesaid, to deliver over such accused person or persons to the Civil Magistrate, or to be aiding and assisting the officers of justice in apprehending such person or persons, such officer or officers, so offending, shall be cashiered.

SECT. 55. *Be it further enacted*, That all laws in force in this State, inconsistent with the provisions of this act, be and the same hereby are repealed.

This Act passed March 21, 1821.

AN ACT additional to an Act to organize, govern, and discipline the Militia of this State.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That in addition to the exempts, allowed by the act to which this is additional, all officers who have held, or may hereafter hold commissions in the Militia of any of the United States, for the term of five years, and have been honorably discharged, shall be, and they hereby are exempted from military duty.

SECT. 2. *Be it further enacted*, That the Selectmen of the several towns in the State, which are or may be provided with one or more fire Engines, be, and they hereby are authorized to appoint suitable persons for Enginemen, not exceeding sixteen to

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each Engine, except the Engine in Portland, called the Cataract, for which the Selectmen of said town may appoint any number, not exceeding thirty :— *Provided*, That no standing company shall thereby be reduced below forty-eight effective privates : and all Enginemen so appointed, shall be and are hereby exempted from all military duty, except that of being subjected to a draft, when called forth to execute the laws of the United States, or of this State, or to suppress insurrection, or repel invasion. And whenever a draft of the Militia shall be called for, in the cases aforesaid, it shall be the duty of such Enginemen as may be drafted, to be armed and equipped in the same manner, and subject to all the duties and liabilities of drafted Militia.

SECT. 3. *Be it further enacted*, That the fifty-second section of the act, to which this is additional, and such part of the thirteenth section of the same act, as relates to the color of the button, and so much of said act as relates to Enginemen, be, and the same hereby are repealed.

This Act passed Feb. 11, 1823.

AN ACT additional to an Act to organize, govern and discipline the Militia of this State.

SECT. 1. *Be it enacted by the Senate and House of Representative, in Legislature assembled*, That no member of any company of artillery, cavalry, light infantry or riflemen, shall be appointed an Engineman, during the time for which he may have enlisted into such company, and when by such appointment any such company would be reduced below forty-eight effective privates. And it is hereby provided that a company of forty-eight effective privates,

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provided for in this act, and in the act to which this is additional, shall be exclusive of conditional exempts and two musicians, and including corporals.

SECT. 2. *Be it further enacted*, That every non-commissioned officer or private, who, by the act to which this is additional, is permitted to send his arms and equipments for inspection on the first Tuesday of May, shall neglect so to do, or shall on said day lend or sell them so that they may be inspected as the property of another, shall forfeit two dollars and fifty cents, to be sued for and appropriated according to the provisions of this act, and the act to which this is additional.

SECT. 3. *Be it further enacted*, That the Commander in Chief is hereby authorized to cause all necessary repairs to be made in all the carriages and apparatus of the Artillery, and in all the gun-houses belonging to the State; and also to cause gun-houses to be erected for the safe keeping of the public property as aforesaid, where such have not been erected, good and sufficient deeds of land therefor being first given, free of expense to the State.

SECT. 4. *Be it further enacted*, That any part of the troops of any Division may be inspected and reviewed in less bodies than battalions, when by reason of their residence on any of the islands in this State, it may in the opinion of the Major General of such Division be deemed expedient.

SECT. 5. *Be it further enacted*, That upon the requisition of any commanding officer of a company for that purpose, at five days notice, the selectmen of towns and the assessors of plantations, shall furnish and deliver at the place of inspection and review, for the subsistence of such company on the day of inspection and review, one ration for each member of such company belonging to such town or plantation: the ration shall consist of one pound of meat, one pound of bread and one gill of spirit

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said meat to be properly cooked and fit for the wholesome subsistence of the troops. And every town or plantation, which shall fail to furnish and deliver rations as aforesaid, shall forfeit to the use of such company, a sum equal to twenty cents for every such person who shall do duty on such muster, who shall not be so provided with the articles aforesaid; but such forfeiture shall not be incurred, provided such town or plantation shall pay to every such person actually doing duty on such days, the sum of twenty cents in lieu of the rations, which may be determined on at the annual town or plantation meeting in March or April preceding such muster; and the forfeiture may be sued for by the Clerk of said company, before any Court of competent jurisdiction.

SECT. 6. *Be it further enacted*, That no subpœna shall be granted for witnesses to attend any Court Martial by any person except the Judge Advocate; and he shall not summon more than three witnesses to prove one fact at the expense of the State.

[*This Act passed February 25*, 1824.]

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AN ACT in addition to the several acts now in force, to organize, govern and discipline the Militia of this State.

SECTION 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That the time for the inspection of the Militia of this State shall hereafter be on the Tuesday following the second Monday of September annually, instead of the 1st Tuesday of May; and all the provisions of the several acts, to which this is in addition, applicable to the said inspection on the first Tuesday of May annually, shall have force and be applicable to the said inspection to be had on the Tuesday following the second Monday of September annually: And if any non-commissioned officer or private shall neglect to attend any company inspection and drill provided for in this act, he shall forfeit the sum of four dollars; for neglect to attend any Brigade, Regimental or Battalion Review, or any company training provided for in this act, he shall forfeit the sum of three dollars; and for being deficient in the arms and equipments, or any part thereof required by law, he shall forfeit and pay double the amount provided for such deficiency, in the acts to which this is in addition, to be recovered and applied as therein provided.

SECT. 2. *Be it further enacted,* That every commanding officer of a company shall parade his company on the Tuesday

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following the second Monday of September annually, at one of the clock in the afternoon for inspection and drill, and on one other day in the afternoon for company discipline, between said day of inspection, and the review herein provided for; and the troops of each division shall also be paraded for review in Brigades, Regiments or Battalions, on some day between the third Monday of September and the twentieth day of October annually: *Provided*, That no person shall be obliged to do military duty after sunset. But no non-commissioned officer or private shall be compelled to perform any other military duty, or attend any other training, inspection or review, than is herein provided for, except the duty of attending the election of company officers: *Provided however*, That on the approach of any public danger, when in the opinion of the Commander in Chief, any of the exigences are likely to happen upon which the Militia could, by the Constitution of the United States, be called into actual service, he shall have power to order such other and further training and disciplining the Militia, or any part thereof, as he may deem necessary: *And provided also*, That companies raised at large by voluntary enlistment, may establish by-laws and regulations not repugnant to the laws of the State, for perfecting themselves in military discipline, in which they may determine

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what number of company trainings, not to exceed six, they will have in each year, and may establish penalties and forfeitures to enforce the observance thereof; which by-laws and regulations shall be binding on such of the members thereof as subscribe their names to the same.

SECT. 3. *Be it further enacted*, That all excuses of non-commissioned officers and privates for neglect of duty, shall be made to the commanding officer of the company within twenty days after such neglect; and all prosecutions for the recovery of any fine or forfeiture, shall be commenced within forty days from the time the forfeiture accrued; and no Clerk shall be compelled to commence a prosecution against any delinquent, who, in the opinion of the major part of the commissioned officers of the company, is unable to pay the fine or forfeiture incurred by him. And if any town shall neglect to furnish arms and equipments to such privates as are unable to equip themselves in the manner prescribed by law, such town shall forfeit and pay not less than twenty dollars, nor more than fifty dollars, to be recovered by indictment, to the use of the State.

SECT. 4. *Be it further enacted*, That all prosecutions before any Justice of the Peace, by virtue of this act, shall be commenced before some Justice of the Peace living in the town or plantation where the

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company to which the delinquent belongs usually parades.

SECT. 5. *Be it further enacted*, That the captain or commanding officer of each company, shall cause the Clerk of his company to make a return of the state of his company, on the day of the annual inspection, to the commanding officer of his regiment or battalion, on or before the first day of October annually; and the commanding officer of each regiment or battalion, shall cause his Adjutant to record an abstract of the returns made to him, in a book to be kept for that purpose, and to transmit a copy thereof to the commanding officer of the brigade, on or before the first day of November annually; and the commanding officer of each brigade shall cause his Brigade Inspector to transmit the brigade returns to the office of the Adjutant General; also to transmit abstracts thereof to the Major General and to the Division Inspector of his division, in the month of November annually; and the Major General shall cause the Division Inspector to transmit an aggregate abstract of such brigade returns to the office of the Adjutant General, in the month of December annually.

SECT. 6. *Be it further enacted*, That when an officer, by any casualty, shall lose his commission, upon his affidavit thereof before any Justice of the Peace for the county in which he resides, and on filing in

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the office of the Adjutant General such affidavit, he shall be entitled to receive a new commission of the same tenor and date as the one lost as aforesaid.

SECT. 7. *Be it further enacted*, That no election for the choice of Brigadier General or field officer shall be valid, unless a majority of all the electors qualified by law to vote in such choice, (counting all existing vacancies in the offices of such electors) shall be present at such election.

SECT. 8. *Be it further enacted*, That from and after the passing of this act, no staff officer shall be detailed to serve as a member of courts martial or courts of inquiry: *Provided however*, That any staff officer may serve as marshal. And so much of the thirty-seventh section of the act to which this is additional, as provides that "the commanding officers of divisions, brigades and regiments shall furnish the officers next below them in grade, with a certified copy of the rosters of the staff officers respectively," be, and the same is hereby repealed.

SECT. 9. *Be it further enacted*, That no arrest of any officer to be tried by a court martial, shall be legal (except for offences committed on parade in presence of the troops) until the Commander in Chief or Major General (as the case may be) shall have ordered the officer arrested to be tried by a court martial, and shall have directed

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such arrest to be made; and no arrest for offences committed on parade shall be legal unless made by order of the commanding officer present in writing; and unless such commanding officer shall within fifteen days exhibit to the competent authority his complaint in writing, setting forth the cause of such arrest.

SECT. 10. *Be it further enacted*, That the Governor, with advice and consent of council, be, and he hereby is authorized to organize independent battalions of infantry, with a battalion staff, where the local situation of the troops is such that they cannot be conveniently connected to a regiment. And where by the division of any corps, a new division or brigade shall be so formed as to leave but three companies of any regiment of cavalry or artillery, or where by the disbanding of any company, such regiment of cavalry or artillery shall be reduced to three companies, such three companies shall still constitute a regiment, and all the officers thereof shall retain their command and rank, the same as though said corps had not been reduced.

SECT. 11. *Be it further enacted*, That the several officers herein named shall receive the following compensation annually, in full of the services by them performed: Division Inspectors the sum of ten dollars; the orderly Aids-de-camp of Major Generals, Brigade Inspectors, and Aids-de-camp of Brigadier Generals, thirty dollars each.

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SECT. 12. *Be it further enacted*, That all acts and parts of acts, so far as the same are inconsistent with the provisions of this act, and so much of said acts as prohibit the commanding officers of companies from receiving any excuses from their men, for deficiency of equipments, and so much of said acts, as require Selectmen of towns and assessors of plantations to furnish blank cartridges to be used at the muster or review, be, and the same are hereby repealed: *Provided*, That nothing contained in this act shall be construed to repeal or in any way affect the twenty-sixth section of an act, entitled "an act providing for the government of the State Prison, and for the punishment of convicts," passed the twenty fifth day of February, in the year of our Lord one thousand eight hundred and twenty-four.

[This act passed February 28, 1825.]

AN ACT respecting Gun Houses.

Be it enacted by the Senate and House of Representatives, in Legislature assembled, That whenever any or either of the Gun Houses, used for the protection and preservation of guns, gun carriages, tumbrils, munitions of war, or any other apparatus, provided for the use of the Artillery of this State, shall be so far injured or de-

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cayed, as that, in the opinion of the Commanding Officer of any Division of the Militia, in which said gun houses are situated, it is inexpedient to repair the same, such Commanding Officer may authorize the Captain of the Artillery Company having the immediate superintendence of the gun house, thus injured or decayed, to dispose of the same, either at public or private sale, as he may judge most advantageous, and deposite the proceeds thereof in the Treasury of the State, for the use thereof.

[This Act passed Feb. 23, 1827.]

AN ACT establishing Circuit Courts Martial.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That Circuit Court Martials [Courts Martial] be constituted for the trial of officers holding commissions in the Militia of this State, during time of peace, with the same power which has heretofore been exercised in cases within the cognizance of General and Division Courts Martial: And for that purpose, the State shall be divided into three Military Circuits, in manner following, viz.: The First Circuit, to consist of the First, Fifth and Sixth Divisions of the Militia; the Second Circuit to consist of the Second, Fourth and Eighth Divisions; and the Third to consist of the Third and Seventh Divisions.

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SECT. 2. *Be it further enacted*, That each of said Circuit Courts shall consist of three members, holding or having held commissions in the militia above the rank of captain, and being persons of virtue, learning and discretion, to be appointed by the Governor, with advice of Council, to hold their offices for the term of seven years, unless sooner discharged. And one of the members of each Court, appointed as aforesaid, shall be designated in his commission as the president thereof: And two of the number, the president* being one, shall constitute a quorum for the trial of all causes within their jurisdiction; and in case the president of any court shall be held to trial for any offence cognizable by said court, the senior officer, being a member of the court, shall exercise the office of president.

SECT. 3. *Be it further enacted*, That there shall be appointed and commissioned by the Governor, a Division Advocate for the Militia of suitable learning in the law, in each Division, with the rank of major, whose duty it shll be to prosecute such complaints as shall be exhibited to the Adjutant General and instituted by the Commander in Chief.

SECT. 4. *Be it further enacted*, That the court hereby authorized, shall be held from time to time, according to the appointment of the Commander in Chief, at some place within a division, to be by him desig-

*See Act additional, passed March 19, 1830.

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nated for the trial of any cause of complaint arising within such Division. And it shall be the duty of the Division Advocate, whenever any complaint is lodged with him against any officer, to reduce the charges and specifications of charges to proper form, and to transmit the same to the Adjutant General's Office, for the consideration of the Commander in Chief. And whenever a Court Martial is ordered, the Advocate shall be furnished with a copy of the order therefor, and of the charges and specifications exhibited, and cause the respondent to be served with a copy thereof thirty days at least before the time of trial. And the respondent shall be held to answer said charges and specifications in writing, and deliver his answers to the Advocate, fifteen days at least before the time of trial.

SECT. 5. *Be it further enacted*, That all persons summoned to testify, in any cause, which may be ordered for trial before either of said circuit courts martial, by virtue of a subpœna issued by a Justice of the Peace within the same Division, if for the respondent, or by the Division Advocate, if for the State, shall be held to obey such subpœna, under the same penalties and liabilities for neglect, as are provided in other public prosecutions: And all oaths required of persons testifying in the Court aforesaid, may be administered by either member thereof: And depositions may be

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taken and used in like manner, as in cases pending in Courts of common law, by consent of the Advocate and respondent; and if the respondent shall admit the truth of the charges, without producing satisfactory evidence in justification of the facts admitted, or in extenuation of the offence charged against him, or if, on trial, he shall be found guilty, the Court shall sentence him, either to be reprimanded in orders, or removed from office: And if any officer shall be removed from office, the court shall adjudge him to be disqualified for, and incapable of holding any military office under this State for life, or for a term of years, according to the aggravation of the offence. And the judgment or sentence of the court shall, as soon as may be, be certified by the president, under the seal of the court, to the Commander in Chief, to be promulgated and carried into effect.

SECT. 6. *Be it further enacted*, That, at any session of the court aforesaid, the president thereof shall have power to appoint a Marshal, whose duty it shall be to preserve order therein, and observe the directions of the court; and the president of said court may also, if he thinks proper, appoint a warrant officer to attend upon the same as an orderly.

SECT. 7. *Be it further enacted*, That it shall be the duty of the presidents of the respective courts hereby constituted, to

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prepare from time to time, compendious reports of the trials had in said courts, and of the decisions of all questions arising on such trials, stating, in substance, so much of the evidence as may be necessary for a correct understanding of the cases settled: And such reports shall be annually, in the month of January, deposited in the office of the Adjutant General, that the same may be published, as the Legislature may from time to time determine.

SECT. 8. *Be it further enacted*, That the Commander in Chief shall have power to appoint any member of said court to make a summary inquiry into the truth and circumstances of any matter contained in any complaint or allegation against the conduct of any officer or corps of the militia, whose duty it shall be to report the result of such inquiry and investigation to the Commander in Chief, as soon as may be after he shall have completed such investigation, and file his account for such service in the Adjutant General's Office, to be presented to the Legislature for allowance and payment.

SECT. 9. *Be it further enacted*, That each member of the Court shall receive three dollars for each day's attendance at any court hereby authorized, and the advocate shall receive three dollars, and the marshal two dollars a day each, for their attendance respectively, and the orderly

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officer such allowance as to the Court may appear reasonable; and all witnesses duly summoned and attending any court as aforesaid, shall be allowed one dollar and fifty cents a day, for attendance, and eight cents a mile for travel to and from the court; but no witness shall be taxed against the State, unless summoned by direction of the advocate. And for travel to and from any court to be held as aforesaid, the members and advocate shall each be allowed ten cents a mile. And the pay roll shall be made up at the close of each session of the court, certified by the president and advocate, and filed in the Adjutant General's office, to be presented to the Legislature for allowance and payment.

SECT. 10. *Be it further enacted*, That the Presidents of the several Circuit Courts Martial constitute and compose a board for settling military questions and other purposes relative to good order and discipline, proposed to them by the Commander in Chief.

SECT. 11. *Be it further enacted*, That so much of an act, entitled "an act to organize, govern and discipline the militia of this State," passed March twenty-first, one thousand eight hundred and twenty-one, as relates to Courts Martial, from the thirty-seventh to the forty-fourth section inclusively, be, and the same is hereby repealed.

[This Act passed Feb. 24, 1827.]

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AN ACT additional to An Act to organize, govern and discipline the Militia of this State.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That so much of "an act to organize, govern and discipline the Militia of this State," as requires every town and plantation to provide and keep thirty-two pounds of gunpowder for every sixty-four solders enrolled within said town or plantation, is hereby repealed: *Provided,* That, whenever, on account of any public exigency, the Governor, with advice of Council, shall issue his proclamation, requiring the several towns and plantations to be provided with powder, in the manner by said act prescribed, the duties, penalties and provisions of said act, shall be in full force, as if this act had not passed, until the Governor, with advice of Council, shall issue his proclamation, declaring such requisition no longer necessary; whereupon the requisition aforesaid shall cease, and be no longer in force.

SECT. 2. *Be it further enacted,* That when the commanding officer of a company raised at large, shall make requisitions to the Selectmen of a town, or the assessors of a plantation, for rations directed by law, they shall designate the number and names of the members of such company, belonging to such town or plantation, and certify their performance of militia duty.

[This Act passed Feb. 24, 1827.]

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AN ACT making further provisions concerning the Militia.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That the Governor, with the advice and consent of Council, be, and he hereby is authorized, to appoint a board, consisting of three persons, who shall have power to assemble in the recess of the Legislature, and devise, mature and report a code of rules and regulations, settling the rank of corps and officers, and to consider all subjects appertaining to the Militia, which may be submitted to them by the Commander in Chief, and report thereon to the next Legislature.

SECT. 2. *Be it further enacted,* That said Board be farther authorized to prepare and report a compendium of tactics for the use of the Militia of this State, to be compiled from the tactics which are, or may be established by the Congress of the United States, to be submitted to the next Legislature.

[This Act passed Feb. 23, 1828.]

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AN ACT in further addition, to the several acts now in force, to organize, govern and discipline the Militia of this State.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That companies raised at large, by voluntary enlistment, may establish by-laws, and regulations, not repugnant to the laws of the State, for perfecting themselves in military knowledge and discipline, in which they may determine what number of company trainings they will have in each year; and may establish penalties and forfeitures to enforce the observance, thereof, to be recovered by action of debt in any court of competent jurisdiction, for assessing and collecting funds, and for any other purposes necessary for the good order and government of such companies; which by-laws and regulations shall be binding on such of the members thereof as subscribe their names to the same.

SECT. 2. *Be it further enacted,* That all acts and parts of acts, inconsistent with the provisions of this act, be and hereby are repealed.

[This act passed February 7, 1829.]

AN ACT repealing certain parts of the several acts now in force to organize, govern and discipline the Militia.

SECTION 1. *Be it enacted by the Senate and House of Representatives, in Legisla-*

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ture assembled, That so much of the several acts now in force to organize, govern and discipline the militia, as requires the exhibition of cartridges of powder and balls, or of powder and balls not in cartridges, by non-commissioned officers and privates at the annual inspection, be, and the same hereby is repealed.

SECT. 2. *Be it further enacted*, That so much of the Militia law as provides compensation to Quarter-Masters of Regiments and Brigades, and also so much of the law as requires the personal examination and inspection of military stores, in towns and plantations, be, and the same is hereby repealed.

[This Act passed Feb. 18, 1829.]

AN ACT in further addition to "An Act to organize, govern and discipline the Militia of this State."

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That upon the requisition of any commanding officer of a company for that purpose, at five days notice, the Selectmen of towns, and the Assessors of plantations, shall pay at the place of inspection and review to each officer and member of such company, belonging to such town or plantation, who shall then and there appear and perform military duty, the sum of twenty five cents. And every town or planta-

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tion, which shall fail to pay said sums as aforesaid, shall forfeit to the use of said company, a sum equal to twenty five cents, for every such person, who shall do duty on such inspection and review, to be sued for and recovered by the clerk of said company, before any court of competent jurisdiction.

SECT. 2. *Be it further enacted*, That the fifth section of "An Act additional to an act to organize, govern and discipline the Militia of this State," passed the twenty-fifth day of February, one thousand eight hundred and twenty-four, be, and hereby is repealed.

[This Act passed March 5, 1829.]

AN ACT requiring commanding Officers of Independent Companies, to give notice to Commanding Officers of standing companies, of all enlistments into such Independent Company.

Be it enacted by the Senate and House of Representatives, in Legislature assembled, That whenever any person shall enlist into any company of Cavalry, Artillery, Light Infantry, Grenadiers or Riflemen, the commanding officer of the company, into which such person may enlist, shall give notice thereof, in writing, to the commanding officer of the standing company, to which such person is liable to do duty, within five days from the time of such en-

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listment, and state in such notice, the date of enlistment, otherwise the same shall be void, although the standing company should not thereby be reduced to a less number than forty eight effective privates.

[This Act passed March 16, 1830.]

An Additional ACT establishing Circuit Courts Martial.

Be it enacted by the Senate and House of Representatives in Legislature assembled, That any two of the members of any Circuit Court Martial, shall constitute a quorum for the trial of all causes within their jurisdiction; in which case the senior officer, being a member of the Court, (if it shall happen that the President of the Court be absent or on trial) shall exercise the Office of President. And so much of the act to which this is additional, as is inconsistent with the provisions of this act, be, and hereby is repealed.

[This Act passed March 19, 1830.]

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MILITIA LAWS REPEALED.

Page 20, so much of the 13th section as relates to the colour of buttons.

Page 39, from 37th to 44th Sec. relative to Courts Martial (see page 91).

Page 58, section 52, see additional act of 11th Feb. 1823, page 72.

Page 73, 5th section, all parts of the act of 1821 relating to engine-men; so much of the several acts as requires the exhibition of ball cartridges by privates, &c. at the annual inspection; and provides pay to Quarter Masters of Brigades and Regiments; requires the personal inspection of military stores in towns, &c.; respecting by-laws and collecting fines by the same (excepting the act of Feb. 7, 1829) as requires towns, &c. to keep 32 lbs. of powder for every 64 soldiers enrolled; that provides for the May inspection (see Sept. inspection, page 85) and the other parts of the Act of 1821, inconsistent with the Act of Feb. 28, 1825, are severally repealed.

Page 93, so much of the law establishing Circuit Courts Martial as requires that the President should be one to form a quorum, is repealed. See Law of March 19, 1830.

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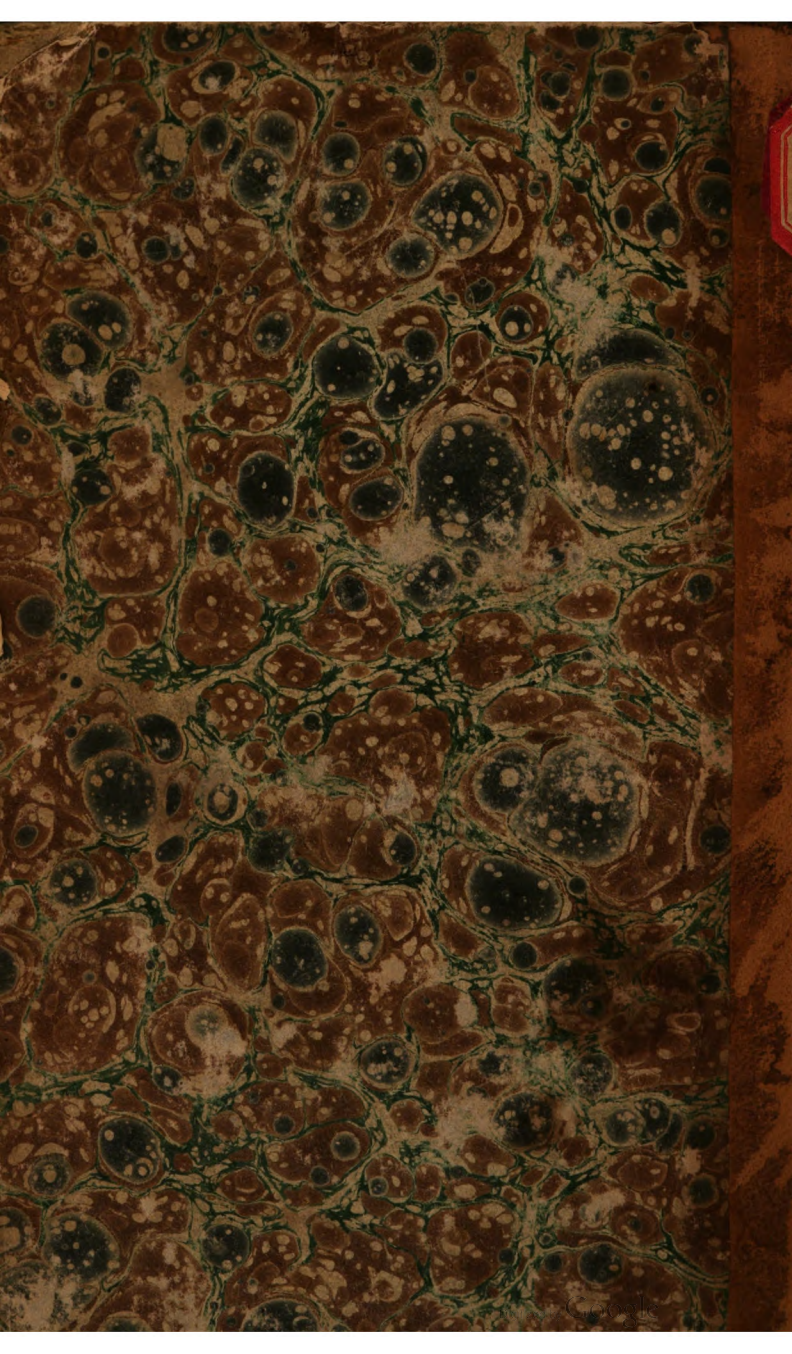
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